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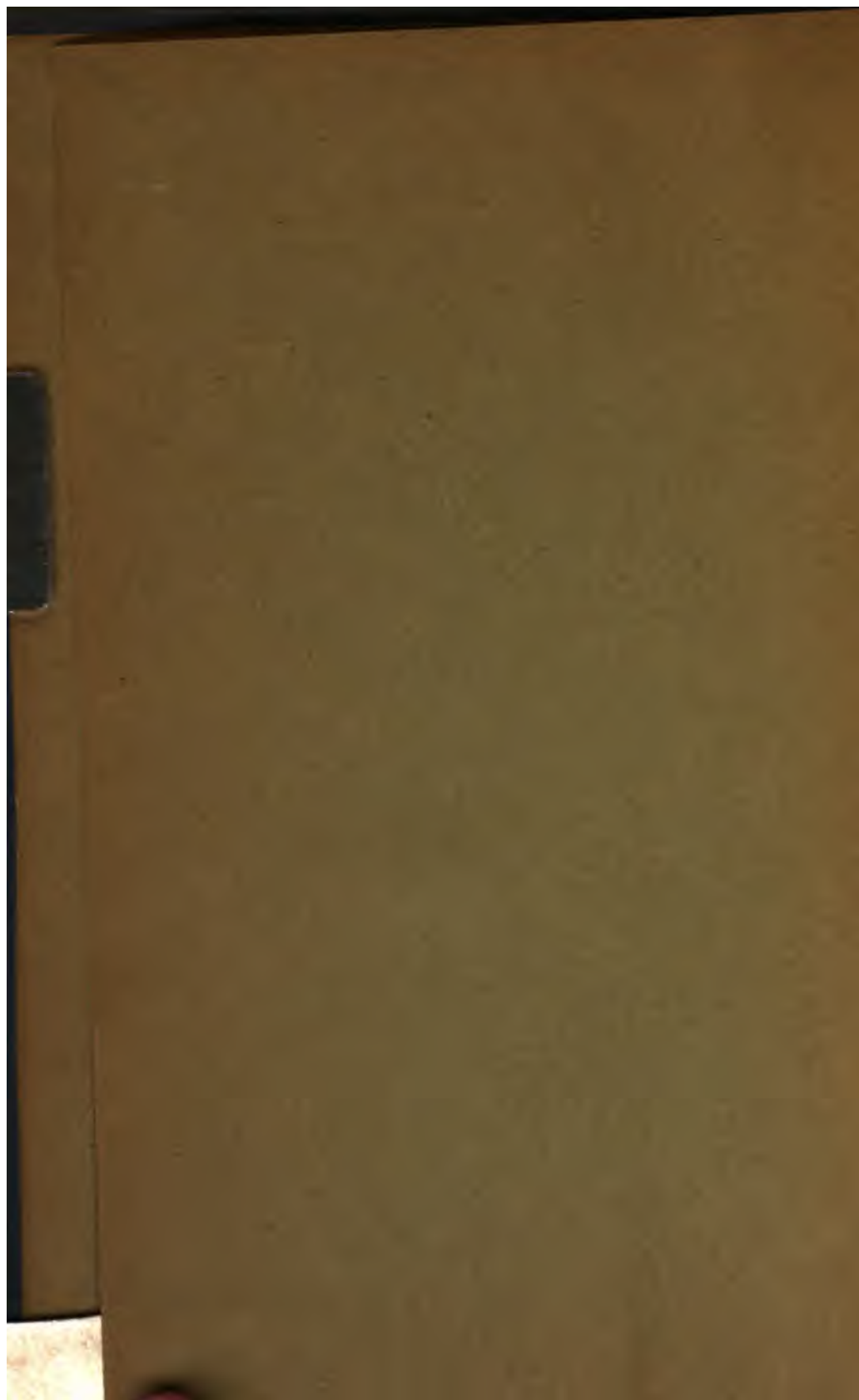
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12-23-71

W. W.
Brown (Ed.)
Fielder







Joseph E. Brown

A SKETCH
OF THE
LIFE AND TIMES
AND
SPEECHES
OF
JOSEPH E. BROWN.

BY
HERBERT FIELDER.

SPRINGFIELD, MASS.:
PRESS OF SPRINGFIELD PRINTING COMPANY.
1883.

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CONTENTS.

	PAGE
INTRODUCTION,	1
CHAPTER I. My Contemporaries. 1857,	25
“ II. Governor Joseph E. Brown’s Early Life,	91
“ III. Government of Georgia under Joseph E. Brown,	108
“ IV. State Geologist and Chemist,	158
“ V. Secession of Cotton-Growing States and Organi- zation of the Confederacy,	170
“ VI. First Year in the Field,	202
“ VII. Defence of Georgia by State Forces,	248
“ VIII. Government of Georgia in Relation to the War,	256
“ IX. Governor Brown and the Confederate Military,	275
“ X. Correspondence of Governor Brown and James A. Seddon, Secretary of War, 1864,	318
“ XI. Correspondence of President Davis and Gov- ernor Brown upon Conscription,	355
“ XII. Correspondence of Governor Brown and A. Ful- larton, British Consul at Savannah,	398
“ XIII. Reconstruction of Georgia,	410
“ XIV. Administration of Governor Bullock,	459
“ XV. A Summary of Governor Brown’s Character,	487
“ XVI. Supplement Prepared for the Publishers, Bring- ing the Narrative of Events to September, 1883,	495

APPENDIX:

Speeches of Senator Brown: The Mexican War Pensions, 598.—The Educational Fund, 605.—The Indian Question, 615.—The Funding Bill, 625.—Reply to Senator Mahone of Virginia, 630.—A Free Ballot and a Fair Count, 642.—The Silver Bill, 660.—The Mormon Question, 678.—The Chinese Bill, 690.—The Tariff Commission Bill, 704.—Civil Service Reform, 714.—Rights of the Citizens of the late Confederate States to Proceeds of Cotton Seized by U. S. Government, 725.—The Tariff and the Internal Revenue System, 742.—Unconstitutionality of the Test Oath, 756.—Our Country, 772.

Errata and Explanations.

Chapter I, page 25, "My Contemporaries," was written by the author at various times during his professional life, and contains his opinions and estimates of the men at the time he wrote.

Page 4, 11th line, after Nathaniel Green Foster, read "the Madison District."

Page 53, 10th line, "James I. Gresham" should be "John J. Gresham."

Page 52, 16th line, "Barney" should be "Burney."

Page 53, 4th line from bottom, "H. S. M' Kay" should be "H. K. McCay."

Page 115, 11th line, "correction" should be "conviction."

Page 156, 20th line, the year "1875" should be "1785."

Page 283, 7th line from bottom, after words "habeas corpus," insert "generally throughout the realm."

Page 432, 3d line from bottom, "John Pope" should be "Meade."

Page 456, 11th line from bottom, "Garrett" should be "Garnett."

INTRODUCTION.

DESCRIPTION OF GEORGIA IN 1880.

This State, in extent of area, geological formation, and diversity of mineral resources; in abundance and variety of timber; in water and water-power; diversity and fertility of soil; capabilities of immense and varied vegetable productions; in climate, adapted to the comfort and health of a multitudinous population; in adaptation to manufactures, to rail, river, canal, and ocean carriage and transportation; its facilities for the growth as well as maintenance of a numerous, powerful, great, and happy population,—in everything except the present possession of enough of people and money, and aside from all political considerations, is an empire within itself.

If she were a separate body, standing on two pillars of land and water, the Atlantic coast and the “Land of Flowers” indicative of her varied capabilities, we could easily point out, to the enquiring beholder, the peculiar facilities of the belts that form the surface from base to summit.

At the broad bottom, we have her level low lands, where the accumulated columns of her rivers move slowly to the Gulf and Ocean, and where their tributaries are skirted with green hammocks and dark loam, the region dotted with open ponds, and those of deposit and thick growth, the main picture being the green carpet, with its floral decorations, perfumed by fragrant odors. This

level belt has its inexhaustible wealth of timber, abounds with self-sustaining cattle, sheep and hogs. The people are plain, frugally clad, honest, hospitable and brave, producing support with but little labor and exertion. It would be difficult to draw a statistical account of the capabilities of this belt alone, if it were only settled by a population sufficiently dense, permeated by railroads, and spotted over with diversified manufactories—its cotton, wool, and silk; its cane and melons; its grapes and cereals; its peas, roots, timber, and oils; its animals of burden and food; its vegetable and medicinal productions, and the magnificence of its floral beauty.

Higher up, the broad belt occupied, before their emancipation, in great part by slaves, and their owners and managers, and since by a population which in some districts is composed of a majority of colored free people. This is the region that, from its early settlement, was in great part devoted to the growth of cotton; and from which, annually, has been brought to market so much of that leading staple which has swelled the aggregate exportable value of American products. But, withal, a vast region not surpassed in the aggregate by any of equal extent in natural fertility and adaptation to the majority of agricultural and horticultural products that are needed for the necessary use, the comfort, and even luxury of mankind.

Higher still, we have the belt of middle Georgia, a general term that describes a section in some parts level, in others broken and undulating, vast in extent, diversified in soil, and of capabilities that are immense. Here are numerous springs, rills, rivulets, branches, and creeks. The rivers flow rapidly over granite and pebbly beds, leaping from higher to lower surface, as if to supply

motive power to machinery prior to man's invention of the use of condensed steam. Here are the rocks and gravel, the loam and the clay. Here the cereals impart to the picture a more golden hue, as they mingle with the cotton, the roots, the fruits, and vines. This is a land highly favored by nature, and to it have adhered a population of former slaves, slaveholders, and non-slaveholders, a people worthy of this heaven-favored country, in every respect except in numbers.

Still higher, we have the broad belt of upper Georgia, stretching from the east over the freestone to the west over the limestone, resembling the middle belt in many places, in surface, water, and geological formations, with a still deeper golden hue, from preponderance of cereal crops. And not very unlike to it in the character, habits, and modes of life of the people, but with greatly diminished mixture of the colored race. This vast region is more variegated as to fertile and barren lands, but far exceeds all the rest in abundance and variety of the mines imbedded beneath its surface.

Thus stands the grand old State, arable, watered, timbered, peopled in every district, with immense capabilities in the production of nearly all that man needs of food, raiment, medicine, laden along her surface with vines and fruits, with her skirts and graceful drapery trimmed with every variety of flowers, from the gorgeous magnolia to the bridal-wreath spirea. She stands in magnificence peerless among the nations; but in modesty, as if a maiden decked and attired for the altar, before their assembled court. Her wealth is of the mountain chain, all studded with stones and precious metals. By her peaks and slopes she makes her obeisance—so genial and inviting is she to all the civilized world. She bows to

the east to catch the light as it comes on Aurora's beams; and to the west to bid adieu to the King of Day and receive the kiss of his last retiring ray; to the North Star, and her twinkling wintry comrades; and to the Queen of Night, amid her virgin throng of southern stars; lofty in her height, magnificent in her proportions, she catches the dews from the clouds; she bows lowly in commiseration and sympathy with laboring man, and sheds her tears to cool his parching fields; these she mingles with the floods distilled from the clouds, and the fountains she sends forth from every undulation of her bosom, and propels them, in silvery columns, along their winding ways, over cascades and through deep valleys, with converging channels and concentrating waves, to unite with the great waters of Gulf and Ocean.

AREA.

The State extends from thirty-one and a half to thirty-five degrees of north latitude, having an average length north and south of three hundred miles, and breadth east and west of about two hundred miles. It contains 58,000 square miles, being about 37,120,000 acres of land.

POPULATION.

By the census of 1870 there were 638,926 white, and 595,192 colored, making the aggregate 1,184,109 people. By the census of 1880 the whites are 816,906, the colored 725,133, making the aggregate 1,542,180.

SUBDIVISIONS.

There are one hundred and thirty-eight counties, varying in size, shape, population, productions, and wealth. These are subdivided into militia districts, designed orig-

inally for the convenience of military organization, which have also been adopted as jurisdictions for courts of justices of the peace.

The judicial division of the State is into circuits, forming jurisdictions for the Superior Courts, the highest tribunal of original civil and criminal jurisdiction in the State, of which there are twenty-one, each having a judge and solicitor elective by the Legislature.

There are ten political districts, the people of each of which elect a representative in Congress. And forty-four senatorial districts, each electing a senator in the State Legislature, the representatives being elected by counties.

BOUNDARY.

Commencing on the south-east at Tiger island, at the mouth of St Mary's river, the State has an ocean front on the Atlantic north to Tybee island at the mouth of the Savannah river, along the eastern border of the counties of Camden, Glynn, McIntosh, Liberty, Bryan and Chatham. Thence that river and her eastern tributary, flowing south-east, divide this state from South Carolina, to the south line of North Carolina along the eastern border of the counties of Chatham, Effingham, Burke, Richmond, Columbia, Lincoln, Elbert, Hart, Franklin, Habersham, and Rabun, to the north-east corner. Thence a dry line west, along the northern border of the counties of Rabun, Towns, and part of Fannin, adjoining North Carolina, and thence along the balance of Fannin and the counties of Murray, Whitfield, Catoosa, Walker and Dade adjoining Tennessee, to the north-west corner near the Tennessee river; thence a dry line south along the western border of the counties of Dade, Walker, Chat-

tooga, Floyd, Polk, Haralson, Carroll, Heard and Troup, to the west bank of the Chattahoochee river; thence south along that bank and the west border of the counties of Harris, Muscogee, Chattahoochee, Stewart, Quitman, Clay, Early, and a part of Decatur, all adjoining Alabama; and thence the balance of said county adjoining Florida to the south-west corner at the confluence of the Flint with the Chattahoochee river. Thence east a dry line along the southern border of the counties of Decatur, Thomas, Brooks, Loundes, Echols and Clynch to the St. Mary's river; thence along the irregular course of that stream on the counties of Charlton and Camden, to the Atlantic ocean,—all adjoining Florida.

RIVERS.

The Savannah is navigable for steamers from the Atlantic to Augusta; and far above that city for flat boats. The Chattahoochee, from its termination in the Appalachicola in Florida to the rapids at the city of Columbus. The Altamaha, from the Atlantic to its beginning at the confluence of Ocmulgee and Oconee: the former, to Hawkinsville, and the latter, to the bridge of the Central Railroad in Washington. The St. Mary's, Satilla, and Ogeechee, for less distances and smaller vessels, as are the Ochoopee and Ocholochnee.

The streams flowing northward across the Tennessee line, the Hiwassee, Notley, Tocoa and Chickamauga rivers, are not navigable in this State. The Oostenaula is navigable for small boats about one hundred miles above the city of Rome, the point of its confluence with the Eowah, forming the Coosa, which, in its flow to Alabama, is navigable about forty miles in this State.

Beside those mentioned, the State is permeated in all

parts by smaller rivers, large and small creeks and their tributary branches and brooks, affording pure water in abundance for all the uses of man and the lower animals. Among the rivers not already named, there are in the upper part of the State among the mountains, Tallulah, Chestatee, Ellijay, Coosawattee and Connasauga: south of the mountains in upper Georgia, Broad and Little rivers tributary to the Savannah and Talapoosa flowing into Alabama. In middle Georgia, Ulcofauhatchee, called Alcova, South and Yellow rivers tributary to Ocmulgee, Appalachee and Little rivers tributary to Oconee, and, in the southern part of the State, Little Allapaha, Suwanee, and Canouchee rivers.

WATER POWER.

These streams, passing from higher to lower lands, abound with falls, many of them beautiful, and a few that are of striking grandeur and awe. The water powers furnished are multitudinous, and diversified by the heights and by the differences in volume of water—varying from one horse to twenty thousand horse power.

ALTITUDE AND SURFACE.

The average elevation of the State above the level of the sea is about 650 feet. The eastern portion of north Georgia is about 1,500 feet, having mountain chains 3,000 feet, with peaks nearly 5,000 feet high. The western part of the same belt is about 750 feet, with mountain chains 2,000 feet high, some of which are fertile, and are generally interspersed with extensive and fertile, as well as beautiful valleys, while the eastern is more generally hilly, with fewer valleys.

The belt of middle Georgia above the points of river

navigation is generally from 500 to 1,000 feet, the average altitude being about 750 feet. This belt has no mountains, except perhaps the majestic Stone Mountain towering up in the midst of a comparatively level section. It has no extended plains or valleys, but is generally undulating, and in some places quite broken and hilly. The lower belt, being by far the largest, has an altitude of from 200 to 300 feet. It is generally level, though in some places exceedingly uneven and broken by steep, low hills and narrow valleys and ravines. The streams flow more slowly, have scarcely any high lands and hills skirting them, as in the up country, and more extensive swamps and low marshes. And the face of the country, instead of being varied as in the northern part by mountains, is interspersed often with small ponds, some of them open and clear, others surrounded by dense undergrowth: and by beautiful lakes, many of them transparent.

The State has three general slopes subdivided by many small ones. The first and major one is the Atlantic, south-east of the Appalachian chain of mountains, and the Chattahoochee ridges dividing it north-east to south-west, above the middle. The next in size, the Gulf slope, south of that chain and west of the Ridges. The other, the Tennessee slope, north of those mountains. All are indicated by the rise and flow of the water courses, and are marked by a diversity of climate, soil, timber, and mineral deposits.

CLIMATE.

The southern half of the State is marked by equanimity: mildness in winter, and regular warm days and nights in summer. The northern, by greater diversity and change of temperature; the winters are colder and have more sudden and extreme changes from mild to severe cold.

The summer is delightful for the cool and bracing atmosphere at night, and, in the higher portions, freedom from oppressive heat by day. The temperature varies much also between the mountains and valleys. The whole northern belt abounds in springs so cold that water needs no ice to adapt it to use for drinking.

SOIL, PRODUCTIONS AND HEALTH.

The tide-water lands on the south-east are devoted to rice, and furnish most of the product of that grain which the State sends to market. It is, however, grown mostly for home consumption, to a considerable extent on the low lands of the interior.

The vast area of lower Georgia, generally sparse of population, produces corn, oats, barley rye, rice (wet or dry culture), peas, ground peas, turnips, potatoes, sugar-cane, cotton, tobacco, vegetables, fruits, berries, and melons. The soil is light, soft and of easy cultivation. Most of the habitations are of sparse dimensions, made of rough timber from adjacent forests, and built at but trifling expense. The people away from the streams, swamps, marshes, and hammocks are as free from disease as those of any part of the continent; but in such localities they are more or less exposed to malarial diseases. The native grasses afford permanent pasturage to sustain well in summer, but poorly in winter, cattle and sheep. Hence beef and wool enter largely into home consumption and furnish profitable commerce to many of the people.

The middle belt of rolling and sometimes hilly surface is of red gray, and in some places mulatto soil, all with clay foundation; and, except sugar-cane, is productive of all the crops mentioned in the low country, and is well adapted also to wheat. In fact, nearly all of the market

crops of the continent will grow here, though all are not cultivated.

The population is more dense than in lower Georgia, though sparse here compared with many other States of the Union. The dwellings, not universally, but generally, are more commodious and comfortable. The white people are healthful, active, industrious, and generally intelligent. There is a larger population of colored people than in the sparsely settled portions of lower Georgia.

The same description of peoples applies to the wealthier and more densely populated neighborhoods of the low country ; and to the northern belt, where similar crops are grown with less proportion of cotton and colored people, as to the major part of it, with the addition of grasses, including clover for hay ; and where the soil is better adapted for the growth of tobacco, not extensively grown in any part of the State.

TIMBER.

The extensive southern belt abounds with pine, which is of the finest quality and inexhaustible quantity. The lakes, many of the ponds, and the water courses are often skirted with live oak, and other species of oak, and with evergreen trees in great variety. These tracts, not extensive in width, are called hammocks ; and where the land is so low as to retain the water amid the trees and undergrowth they are called swamps, some of which are dense and extensive.

The timber of middle and many parts of upper Georgia was extensively destroyed for farming purposes ; but still in many places the supply is abundant. The native forests were set with pine in many places mixed with oak in every variety, dogwood, hickory, poplar, chestnut, and

every variety of gum, cedar, spruce pine, walnut, ash, elm, black-jack, and sycamore ; and in many localities the pine and other growths mentioned are wanting. The timber of Georgia seems to be an inexhaustible source of wealth.

METALS AND MINERALS.

Granite and limestone are so extensive as to be inexhaustible in different parts of the State, while they are not found in others. The variety is extensive of rocks and stones, in color, hardness, durability and uses to which they may be applied, to be found in different localities, including marble of several grades and kinds. In some localities are inexhaustible marl beds, and in others quarries of slate of the finest quality. Gold is extensively distributed across the upper part of the State, north-east and south-west ; and valuable mines of copper have been discovered in many places in the same region. There are numerous other mineral deposits of great value and importance, as well as mineral and medicinal waters in limitless variety and abundant quantity.

But the two deposits of value, and apparently the most profuse from the Creator, are iron and coal. It may be said that, so far as relates to soil, climate, water, adaptation to the growth of all crops, timber, and mineral deposits, no part of the globe is better fitted than the State of Georgia, if shut out from all the world, to maintain a great population for an indefinite period, provided there were in operation manufactories sufficient to convert all her raw material into commodities for use.

Upon these natural advantages a reasonable degree of improvement has already been made, placing this State far in advance of some, but still leaving her much to accomplish hereafter in order to be abreast with many other

countries and States of the Union. Among those improvements we refer to our

SYSTEM OF RAILROADS.

The following railroads are in operation :

From Savannah to Isle of Hope, 9 miles ; thence to Montgomery, 4 miles.

From Savannah to Bainbridge 237 miles ; on this line, branch to Live Oak, Florida, by Atlantic and Gulf Road, in this State, 30 miles ; branch from Thomasville by South Georgia and Florida Railroad to Albany, 60 miles.

From Savannah to Atlanta, the Central Railroad, via Macon, 295 miles ; on this line, branch from Millen to Augusta, 53 miles ; from Tennille to Sandersville, 3 miles ; from Gordon to Eatonton, 39 miles ; Barnesville to Thomaston, 16 miles ; Griffin to Carrollton, 60 miles.

From Macon to Eufaula, on west bank of Chattahoochee, in Alabama, the Southwestern Railroad, 140 miles ; on this line, from Fort Valley to Perry, 11 miles ; Fort Valley to Columbus, 71 miles ; Smithville via Albany to Arlington, 60 miles ; Cuthbert to Fort Gaines, 22 miles.

From Brunswick to Macon, Macon and Brunswick Railroad, 186 miles ; on this line, branch from Eastman to Ocmulgee River, Cochran to Hawkinsville 10 miles.

From Brunswick to Albany, Brunswick and Albany Railroad, 172 miles.

From Augusta to Atlanta, Georgia Railroad, 171 miles ; on this line, branches Barnett to Washington, 18 miles ; Union Point to Athens, 39 miles ; Carnac to Macon, Macon and Augusta Railroad, 74 miles.

From Columbus to Kingston, North and South Railroad, 20 miles.

From Atlanta to West Point, Atlanta and West Point Railroad, 87 miles.

From Atlanta to Charlotte, N. C., Atlanta and Richmond Air Line Railroad, in this State, 100 miles; on this line from Lula to Athens, North-Eastern Railroad, 40 miles; branch from Tocoa City to Elberton, 51 miles.

From Atlanta to Chattanooga, Tennessee, Western and Atlantic Railroad, 138 miles.

From Marietta to Canton, narrow gauge, 24 miles.

From Cartersville to Cedar Town, narrow gauge, 35 miles.

From Kingston to Rome, 20 miles.

From Dalton to Bristol, East Tennessee Railroad, in this State, 18 miles.

From Dalton to Selma, Alabama, via Rome in this State, 57 miles; by Chattanooga and Alabama Railroad, Chattanooga to Selma, in this State, 25 miles.

The aggregate of these roads is 2,440 miles. The main lines mentioned connect with other lines beyond the State extending to all parts of the country, affording to the people markets within practicable distances from their homes and places of business and industry.

TELEGRAPH LINES

Are in operation along the lines of most of the railroads above described.

CITIES AND TOWNS.

Since the commencement and completion of the railroads of the State, the number, prosperity and growth of towns and cities have greatly increased. These are

marts of commerce, sites of churches of different orders ; common and high schools for both races and sexes, and some of them have flourishing colleges. They are generally healthful, and the people happy and prosperous. Many of them are centers of intelligence, refinement, moral and social worth, as well as Christianity.

The principal cities are Savannah, situate on the Savannah river, about twenty miles from its mouth, with a population of 33,248.

Augusta, at the head of steamboat navigation on the same stream, with a population of 22,301.

Macon, on the Ocmulgee river, in the central part of the State, with a population of 14,000 within the city, and 11,000 in suburban villages and settlements, making 25,000.

Columbus, at the head of steamboat navigation on Chattahoochee river. Population within city 10,137, and suburban villages 8,000 : total 18,137. Atlanta made site of State Capital in 1868, 37,825 : Athens on Oconee river, north-east part of State, site of University of Georgia, 8,052. Rome at confluence of Etowah and Oostenaula rivers.

Brunswick on the Atlantic coast, 2,900 ; Darien, 1,544. On Western and Atlantic railroad, Marietta, 2,229 ; Cartersville, 2,037 ; Dalton 2,516. On Air Line railroad, Gainesville, 2,450. On Georgia railroad, Washington, 2,203 ; Greensboro', 1,600 ; Madison, 2,500 ; Covington, 1,470 ; Conyers, 1,400 ; Social Circle, 800 ; Stone Mountain, 1,800. On Macon and Augusta railroad, Milledgeville, 3,998 ; Sparta, 900. On Central railroad, Sandersville, 1,322 ; Eatonton, 1,371 ; Waynesboro, 1,015 ; Forsyth, 2,000 ; Barnesville, 1,983 ; Griffin, 4,500 ; Thomaston, 900. On Macon and Brunswick railroad, Hawkinsville,

2,100; Eastman, on Albany and Gulf railroad, 500; Jessup, 600; Blackshear, 778; Valdosta 1,516; Quitman, 1,525; Thomasville, 2,556; Bainbridge at terminus on Flint river, 1,444; on Southwestern and branches, Fort valley, 1,278; Perry, 709; Oglethorpe, 442; Americus, 4,800; Albany, 3,000; Dawson, 1,684; Cuthbert, 2,115; Fort Gaines, 1,100. On Atlanta and West Point railroad, Fairburn, 563; Newnan, 3,000; La Grange, 2,375; West Point, 1,972; Camilla on South Georgia and Florida railroad, 700; Carrollton at terminus of North Alabama railroad, 956; Cedar Town at terminus of Cherokee Narrow Gauge, 1,635; Cave Spring on Rome and Selma railroad, 850; Talbotton, 1,008; Oxford, site of Emory college, 1,000.

There are numerous other railroad towns, county sites and villages, generally smaller than those mentioned.

MANUFACTORIES.

The manufacture of cotton, the principal market product, converting the raw material into fabrics, was begun in the vicinity of Athens, utilizing the water power of the Oconee river, upwards of fifty years ago. The successful experiments in Clark county were followed by similar enterprises in Green, Richmond, Morgan, Newton, Baldwin, Cobb, Hancock, Putnam, Troup, Chattanooga, Upson, Warren, Chatham, Bibb, Decatur, Early, Harris, Muscogee; the most extensive are at Augusta, Columbus, and Roswell in Cobb county. They increased in number and extent, and now there are in the State thirty-seven cotton and fourteen wool factories.

The progress of iron manufacture has been more rapid, having begun at a much later period. There are twenty-eight manufactories and foundries in North-western Georgia, some of them very extensive, and in some

instances supplied by coke of the best quality, produced from the native coal. There are seven paper factories, flour and corn mills in endless variety in every part of the State, and a large number of mills for pounding rocks that contain the precious metal. Numerous distilleries of liquors and of turpentine, and several extensive manufactories of commercial manures; others for locomotives and cars; numerous establishments for making wagons, carriages, agricultural implements, boots, shoes, and building material; doors, windows, sash, blinds, brick and roofing; with mills in great abundance for cutting lumber from the forest. At Columbus the Chattahoochee river is used to move the immense machinery. At Augusta, the water of the Savannah river is utilized by a canal nine miles long, which is about one hundred and fifty feet wide, with a depth of eleven feet of water; and through this, the flat boats for which the river is navigable one hundred miles above Augusta avoid the shoals above, and find easy access to the city.

RELIGION AND CHURCHES.

The Protestant Christians are by far the most numerous professors of religion, but are divided into sects or denominations, the principal and most numerous of which are the Baptist, Methodist and Presbyterian, and each of these have subdivisions.

The Baptists have a membership of about 112,000 whites and 98,000 colored, with 2,600 church organizations and edifices. They have an organization co-extensive with the State called a convention, and one hundred and twenty smaller ecclesiastical divisions of advisory bodies called associations.

The Methodists have a membership of about 100,000

whites and 70,000 colored. The principal division of which, the Methodist Episcopal Church South, has two jurisdictions called Annual Conferences, which are divided into districts, circuits, missions and stations. Other Methodist organizations have similar subordinate jurisdictions.

The Presbyterians have a membership of about 9,000 whites and 1,000 blacks. They have a State jurisdiction called a synod, which is subdivided into presbyteries.

The colored memberships are generally in separate organizations from the whites of the same sects, a distinction which is still more strictly preserved in all the schools in the State, and is preferred by both races.

There are a few churches of Congregationalists, Lutherans, Unitarians, and Universalists.

The Christian Church has about fifty church organizations and edifices, with upwards of 5,000 membership.

The Protestant Episcopal Church has a membership of about 4,500, with about thirty churches. The aggregate Christian membership of the State is about 400,000 souls.

The Israelites have numerous local organizations that are without edifices or stated worship, but have six synagogues and a membership of about 5,000.

The styles of the church edifices vary much, and conform to the situations and circumstances of the people where they are located. There are comparatively few elegant buildings in the country, away from the towns and cities. Many of them are neat and comfortable, but in many places they are small, of cheap and rude structure, and wanting in comfort as well as ornament; and such is the case with many in the cities, towns and villages. But a large proportion of those in the cities and towns are

highly creditable, and many of them handsome. There are a few that for this country are splendid edifices.

Pulpit eloquence and church music are largely cultivated, and in many places both have attained a high standard of excellence.

CEMETERIES.

In nothing has the civilization of the State shown more evidence of advancement than the improvements that have been made in latter years of the resting-places of the dead. The primitive custom of burying in the church-yards in town and country, is in many places adhered to, but generally with increased care of the graves. But, in most of the towns and in all the cities, separate places are set apart for public cemeteries. Many of these, by the natural growth and transplanted ever-green trees, shrubbery, and flowers, with the variegated structures over and around the dead, are made lovely and beautiful. At the wealthy and populous cities of Augusta, Savannah, Macon, Atlanta, Columbus, Rome, Athens, they are strikingly beautiful, while the cemeteries in many of the larger towns are attractive ornaments. The Confederate and State soldiers who died under circumstances that enabled their friends to inter them, or in the numerous hospitals located in the State, are distributed in the cemeteries and church-yards and private grave-yards all over the State. Those buried on and near battle-fields have generally been collected in Confederate cemeteries at Resaca, Marietta and Atlanta.

The Federal soldiers who died in our prisons and hospitals, and on the battle fields in the State, who were not carried to other States, have generally been collected in national cemeteries at Andersonville and Marietta.

PUBLIC CHARITY.

In many of the counties of the interior of the State, provision is made by the erection of poor-houses, establishment of poor-farms, or by disbursing the funds collected by taxation through the county officers to support the few really indigent people. The number found in actual want and unable to subsist without public aid is small in every part of the State.

The old cities, particularly Savannah, have charitable institutions, many of which are under the auspices of voluntary associations. In many places the Protestant as well as the Catholic churches have voluntary and relief societies. Suffering from destitution and want, and aside from disease, is of rare occurrence in town or county.

There are three classes of unfortunates for which the State has made liberal appropriations, and established near Milledgeville an asylum for the treatment and care of lunatics, at Macon an academy for the education of the blind, and at Cave Spring an institution for the education of deaf mutes, all under successful operation for many years, and dispensing, in large measure, the blessings designed by the State.

Destitute orphans have not shared the State's liberality, but those of the Catholic people have long been provided for by an asylum located at Savannah. The two Georgia conferences of Methodists have each established an orphans' home without reference to the religious faith of their parents. The north Georgia, near Decatur, and the south Georgia conference, near Macon. Both are doing well, but as yet are of limited capacity and accommodations.

SCHOOLS AND COLLEGES.

There are upward of 160,000 pupils, large and small, taught weekly in Sunday-schools, which are almost entirely under the care and control of the different churches. They come from all grades and classes of people, and represent every variety of wealth and poverty, intelligence and ignorance among the growing generation, upon all of whom the beneficial effects, in mind and morals, and often in religion, are perceived. Sabbath-school system is on the increase. The methods of popular education, aside from that of Sunday-schools, have undergone important changes within the last thirty years. There is a much larger proportion of people taught letters. The proportion of collegiate over academic instruction in males and females has greatly increased. The poor-school system, which by taxation and otherwise dispensed limited benefits to children classified as poor, and which classification rendered the system to an extent unpopular, has for the last twelve years been superseded by a system of common schools open to all children of given ages, and of both races, without regard to pecuniary circumstances. Under the former system the main part of the education of children and youths was paid for by parents and guardians. And such is, to a great extent, still true.

The State constitution, which requires separate schools for the white and colored races, limits the system to the elementary branches of an English education. The State's appropriation of \$300,000 annually, alone is sufficient to keep the children taught, from 180,000 to 190,000, in the schools but a short period of the year, and necessarily in many instances under very inferior and often unfaith-

ful instructors. Still there is some degree of elementary progress toward the training of mind flowing from the system. And its benefits are enlarged in every locality where local appropriations by counties or cities are made, and in proportion to the extent of such supplement of the State school fund.

Still the system generally over the State does not meet the demands of popular education, and schools of all grades are maintained by the people as formerly. All the towns and villages maintain good schools for the whites, and many of them also for the blacks, the expenses of which are paid by the patrons and employers. But there are fewer country schools than formerly; and a large proportion of those seeking even academic education who reside on farms, distant from the towns, are required to incur the expense of boarding in addition to tuition.

In addition to the numerous academies, male and female and mixed, and of the respective races separate from each other, there are numerous chartered colleges, most of them in successful operation. Georgia was the first State in the world to charter and put in operation a college for the graduation of females. The Southern female college was chartered at Macon in 1836, and afterwards changed to Wesleyan female college. This example has been followed by all the States, and by numerous like charters and institutions established under them in this State. But this, the oldest, is the most extensive in appointments for varied instruction, and has much the largest patronage of any similar school in the state. But many of the others have ample faculty, buildings, and arrangements for high grade of education, and have large patronage.

The Georgia female college, and Madison female col-

lege are located at Madison ; the Southern female college and La Grange female college, at La Grange ; the Southern Masonic female college, at Covington ; Furlow Masonic female college, at Americus ; Andrew female college, at Cuthbert ; Young female college, at Thomasville ; Monroe female college, at Forsyth ; Houston female college at Perry ; Lucy Cobb female college at Athens ; College Temple (female college), at Newnan ; Columbus female college, at Columbus ; Le Vert female college, at Talbotton ; West Point female college, at West Point ; Conyers female college, at Conyers ; Gainesville female college, at Gainesville ; Cherokee Baptist female college, and Rome female college, at Rome ; Dalton female college, at Dalton ; Griffin female college, at Griffin ; Georgia Baptist seminary, at Gainesville. Gordon institute is a flourishing college for males and females located at Barnesville.

The University of Georgia, formerly Franklin college, the oldest male college in the state, located at Athens ; Mercer university, located first at Penfield, Green county, and afterwards at Macon ; Oxford, located at Oxford, Newton county ; Bowden college, located at Bowden, Carroll county ; and Pio-Nino, located near Macon, are the five male colleges for the white race. The Atlanta university, located at Atlanta, is a flourishing college for the males and females of the colored race. The Georgia medical college at Augusta, the Atlanta medical college at Atlanta, and the Savannah medical college at Savannah are popular institutions for the graduation of physicians. The Lumpkin law school, connected with the university of Georgia for the graduation of attorneys-at-law.

There are in addition to these, several commercial and business colleges, and branch colleges of the University

of Georgia at Dahlonega, Milledgeville, Thomasville and Cuthbert.

PRINTING AND PUBLICATIONS.

There are fourteen daily newspapers. Two in each of the cities of Savannah, Augusta, Macon, Columbus, Griffin and Atlanta; one in Rome, and one in Albany; and one hundred and twenty weekly papers, varying largely in size as well as patronage, distributed over the state, in eighty-five of the larger towns, cities, and villages. They are in matter and aims diversified and miscellaneous, most of them more or less political; some devoted mainly to religion, some to agriculture, others, literary. But all devoted to progress and improvement, and as a system constitute one of the most efficient, extensive, and cheap methods of popular education. Most of them have job offices connected with them, which make printing, aside from publication, a lucrative business in many places. There are publishing houses in Savannah, Macon, and Atlanta, and in each a medical journal.

SOCIETIES.

The agriculturists have a State agricultural society composed of representatives of the numerous county societies, holding semi-annual conventions in different sections of the State. There is also a State horticultural society, and a central organization composed of representatives of local societies of the Patrons of Husbandry, called the State Grange. The ritual of this order is secret. There are numerous local literary societies in addition to the Georgia Historical Society located at Savannah.

The social and benevolent orders are numerous, having local societies and state organizations, whose existence

and aims are public, but having secret rituals and exclusive meetings. Principal among them are Masons, Odd Fellows, Good Templars, Sons of Malta, Knights of Honor, and Knights of Pythias, having numerous local lodges or societies, representatives of which constitute the Grand or State Lodges. There are also State associations of the press, of teachers, and of physicians, having annual meetings. The North Georgia Fair and Stock Association is located at Atlanta, and a State fair is held annually, under the auspices of the State agricultural society, alternately at Macon and Atlanta. Besides there are many fair grounds well improved and extensively patronized under societies and associations in every part of the State, located at the central towns. There is also a State horticultural society.

CHAPTER I.

MY CONTEMPORARIES.—1857.

Georgia, the state of my nativity and ancestry, is great in physical resources of wealth, and in capabilities of development and improvement in mind and morals; and therefore, in the means of rearing and maintaining a population, great in number and power; and deserves more prominence and distinction than she has, for the high grade of true merit she has already reached in her public officers, and men of leading minds in science, literature, the church, and learned professions of law and physic. The deplorable want of tangible and convenient historic description and record is a crying evil at this period when I, one of her humble citizens, reach the period of observation and meditation upon men and things around me. Hence, I begin, in this crude method, to lay up in store my own conclusions of the men among whom, and of the times in which, I live.

The literature of this, as of every past age, must in great part be the product of private fortune, prompted and carried on at the behest of individual ambition and by individual enterprise. Literary persons, who have no exchequer except what the world returns for their valuable contributions, live and die poor as to all that money can purchase. The abundance of luxury and ease which gold can, and usually does, provide for its owners is not favorable to the toil and labor that a pure and exalted literature requires. The hope of their comforts may stimulate the pursuit, but their possession supplants the desire

for purely intellectual pleasures. I have, therefore, reason to rejoice in the possession of at least one of the prerequisites to literary success—a want of surplus money—but prize as much a sufficient worldly estate to maintain my personal independence, which is essential to truth and fairness.

The grade and power of mind, as well as the passions, emotions, tastes and sensibilities of authors, in a great degree, prompt, mould and modify the literature of the times in which they write, causing it to brighten and sparkle under the magic touch of genius, or to descend into barrenness under dull and venal thinkers and writers. It softens by the recurring emotions of charity and philanthropy, and becomes caustic and pungent when prompted or guided by malice, envy, misanthropy, or ambition disappointed from any cause.

I have lived thirty years—long enough to have high hopes, but fortunately not enough to poison my pen by the asperities consequent on the envy of my few disappointments—yet, nevertheless, have witnessed far more of selfishness among men of education and cultivation, not prompted by poverty or want, than I formerly supposed could possibly exist among the men who are leaders in the churches, in the professions, in social and political circles and among those holding public offices.

Some of the contemporaries of whom I write have already died; some are old, have performed life's public task and folded the drapery of its honors and rewards around them and retired to private life to await the summons for exit from time; some are in the midst of full harvest labor of what they have sown in youth and early manhood; others are laboring in the early field—the virgin soil of life—with minds and hearts full-strung to the

work before them. It is of my seniors in age and merit that I write, and will doubtless omit many of equal merit with those who are mentioned by name. Georgia is great in area as well as men, and I do not profess to know all who are distinguished or deserve to be.

There is probably no standard more difficult to be well understood, much less to be fully and satisfactorily described, than that of man's greatness. It has been written and spoken of, represented in marble and on canvas. It has deluged the reading world with words, figures and tropes, with triumphs and tragedies, until we are left in uncertainty and doubt, not to say ignorance, of what it is or has been in any age of the world. We have liberty to erect ideal statues of strength, power and beauty, and to compare men, alive and dead, with those idealities. We may describe actions we regard as grand and momentous, and pronounce judgment of greatness upon the actors and authors; but others, viewing the transactions with different understanding, and with different shades of the light of truth, may regard the actions unimportant, and the achievements of men, made notorious by them, the results of chance and of accidental circumstances.

No matter what endowments any given man may have had by nature, or what education and training he may undergo, no meed of greatness will ever be awarded to him by mankind until he is placed in such position, and at such period, and under such emergencies as cause great events to transpire, or great results to flow from his actions, either in reality or in the opinion of those who are interested in or affected by those events or results. It often transpires that greatness is attributed to a leader or a projector on one side when, in truth, success is the result of weakness and want of capacity on the part of the op-

posing parties or forces. The reputation for greatness often arises to individuals for the success of plans and movements which result from and are necessary sequences of appliances and surroundings; and not unfrequently the thinking powers, knowledge, and skill of subalterns are attributed to him who fortunately is the head and leader at the time.

On the other hand, men in place and power are often censured for failures which result from circumstances beyond the control of any one man or mind. They are condemned for not doing what is not in the power of man to do with the aid and support at command. Events and circumstances have often summoned men who held power and responsible positions to the discharge of duties for which they were not qualified; and men of great capacities have lived and died without distinction for want of position and power and great emergencies to call forth their efforts.

But one man ever achieved what Alexander did; and but one man ever held at the outset of his career such power in the face of only such opposition as Philip left to his son. There was never but one Napoleon Bonaparte, but also never but one Republican France struggling against the domination of the monarchies of Europe. There was never but one Lord Nelson, and never but one opportunity to make another that could have immortalized genius as the commander of the British navies was immortalized. England may subsist a thousand years and rear a thousand men every way his equal in military skill and power before she will have the opportunity to glorify another as Wellington was glorified. Virginia may propagate her crop of men of the blood of Randolph and Lee, and of Jefferson and Washington, for centuries to come,

and never present another Father of his Country, or Author of The Declaration of Independence.

The three great statesmen coming from the East, the West and the South—all of whom have now gone to their long homes—Webster, Clay, and Calhoun, unrivalled in the estimate placed on them by the American people, may have now living many equals in all the essential elements of true greatness who have no field in which to operate, and no emergency of circumstances to call them out and to develop their powers of thought and of speech; who, when they die, will pass quietly into unmarked graves and leave no biographers to portray their merits.

Greece had but one Demosthenes; but, in all her lengthened and unrivalled career of glory in the arts of peace and war, she perhaps had no period or situation that could have so distinguished another. Rome had but one Cicero, and but one Golden Age to gild his fame to the cycles of hoary Time.

The splendors of Raphael and Angelo dazzle the world in their own and following ages; but it is probable that at no stage of civilization would the taste and passion of Italy, or any other country, for the art that so immortalized them, have crowned even their equals, if they had been found, with wreaths of glory so bright and so enduring.

The lessons taught in profane and sacred history, in the display of notably vicious men, are full of instruction on human meanness and depravity. Historic development of forbidding circumstances, and with worldly power and prominence to render crime illustrious, find their counterparts in a thousand forms in every country and age, without their attending importance to make notorious and perpetuate them.

There was only one Job, subjected to the extreme trials that exhaust human patience without yielding, whose life is reported in the Divine Oracles; but millions have died unheralded who exemplified his virtues. There was only one Judas who ever had the opportunity to betray the most priceless of all trusts—the Saviour of the world. But the earth has since been cursed by millions ready to betray, for no higher reward than Judas got, every truth and virtue that Christ came to inculcate and establish.

It is by comparison that we may approximate the true standard and grade of individuals. We compare stars with stars in order to classify them and determine their magnitude. This is to the astronomer a practical undertaking, because the stars change not; nor do the circumstances under which they are seen expand or diminish them. But men in different situations at the same time, and in the same country, and men of different countries and ages have to be seen in the changing light of their peculiar situations, and of circumstances that surround them, in order to form any just opinion of their capacities for great actions and achievements. Every country, and every age, has a history written or a tradition received in lieu of historic record. Providence has so graded gifts to man, and so apportioned them among the countries and the succeeding ages, that no period or clime is bereft of men so endowed or surrounded as to have attracted the attention of their contemporaries; some for distinguishing virtues, and others for notable vices, but of acknowledged 'genius or mental power.

America, from the time of her earliest settlements, through the stages of rapid progress and development, has shared very largely in the munificence of the Creator, both in mind and heart. The circumstances have been

favorable to the production, growth, development and display of men of talents and of genius, though not often on a large scale. She has been fruitful of men of virtue and of vice. She has been also, in a marked degree, self-reliant; cultivated the spirit of national, political and social independence; been proud and exultant, as well as conscious of envy, on account of all she has achieved; and by no means illiberal in adulation and praise of her men of merit.

Georgia, one of the old thirteen colonies that became States, shared the spirit of liberty and of revolution; with her sparse population and limited resources, contributed to the extent of her capacities in all the labors and trials and dangers of the war that ended in American political and civil independence. She was in sympathy and accord with all the republican ideas that gave shape and form and limitation to the united government of revolted and independent sovereign States. She felt the common danger, had a common treasure in the national freedom achieved, in the principles of political equality and of self-government, in all that is established and secured in the Federal Constitution, to the Government, to the respective States, and to the people at large. Hence her public men were intensely interested and active in the movements of the General Government, as the action of Congress and the executive affected or tended to affect this State; and in all the issues which grew out of national legislation and administration, and developed the antagonistic parties in the Union.

The public men of the period following that of the Revolution and the early administrations have passed off the stage of action; and with them have been buried the issues upon measures of policy and of administration of that

period; and place has been given to other issues and other men to divide and contend about them. Success and defeat have chased each other in the ebbs and flows of the tides of passion and prejudice; of intelligence and ignorance; the popularity and odium of leaders and parties have changed often in leadership, and sometimes in names.

The feelings, opinions and principles of men are modified much in and by changes of place and position; and by the use of power on the one hand, and being the subjects of it on the other. Men in power and with legal authority over men love its use; and incline to construe the grants of power in organic and statute law or from custom liberally toward its use and enlargement. Men out of power and its subjects, to be ruled by others, are jealous of it, and of the men who wield it over them; and, as a sequence, they favor a strict construction of the grants of power, and are generally found to be active and often clamorous for the vindication of all legal and constitutional maxims that look to the securing of popular rights.

The public men of Georgia, whose lives I have had the opportunity to study and comprehend, have partaken of the common passions and frailties of men of other States and sections, have been patriotic and unselfish enough to vindicate the true principles of Republican Government; and selfish enough to use all the advantages resulting from such patriotic public service to gain and hold positions of power, honor and profit. Vice, selfishness and perfidy, nor patriotism, philanthropy and virtue, constitute the crown of either of the political parties of this or any past period of the State, but are largely distributed to both; and it is this general truth that renders individual history of

men, as connected with transpiring events, the most attractive and valuable dress for the records of a country.

The results of personal ambition and individual antagonisms in the development and career of parties in the Union have been reproduced on a smaller scale by the quest for places of honor and profit, and consequent quarrels of the early political leaders of this State. The issues passed away with them; but the seeds sown still yield fruit in the divisions and strife of men of ability, integrity, and patriotism. The dead men are not here to answer for their motives, nor will the living be to reply to what may here be said of them; still, the truth of history is of more value to mankind than the fame of any individual leader of the people, especially if based on fiction or misunderstood pretensions to greatness.

We are at a period, already, when unbiased intelligence can discern the purity of purpose and devotion to the public good of the leaders of our local parties, and of the good people who espoused their respective causes. But time will be slow in the process, if indeed there shall ever be satisfactory development of faultless reasons for the extremes to which they allowed themselves to go.

While the ambition of priests and clergymen, in extreme zeal for the cause of religion as understood by them and for the prerogatives of official power, has deluged the world with religious sects, that of political leaders has brought upon the country heartless divisions among good people, aiming at the same general objects—good government and the protection of life, liberty, and property.

It is, therefore, no violation of the facts and truths of our State history to say that the parties who have had their day upon the stage in great part were the harvest of seed sown by party leaders, and were watered and

matured by their personal aspirations, conflicts, and quarrels. Our descendants will never be able to discern why a quarrel and duel between two public men should for years divide and support a feud between the people of a State.

There never has been a time in this State when her people generally, and with rare exceptions, were not thoroughly devoted to the cause of liberty and independence; never a time since the leaders of the United States government sprang divisions on strict and latitudinous construction; and upon the question, on one side, of a strong central government; on the other, strong checks on Federal power and assumptions of power, and a strict guard over the reserved rights of the State and the people—in a word, since there was a Republican party making popular rights the leading idea, and a Federal party making a strong central government the paramount aim—that the people of this state were not thoroughly republican, independent of all local divisions and parties. The Nullification, the State rights, the Troup, the Whig parties, have ever been sound union parties on a proper and secure basis and well defined security to constitutional rights. The Republican, the Union, the Clark, and Democratic have always been devoted to State rights, as both parties understood their elementary principles. Their divisions on men have generally been the results of passion; and those upon issues of policy often resulted from the bent of parties already organized to follow chosen men as leaders.

While this is true, we cannot be indifferent to the masterly powers, the moral courage, and personal greatness of the men our fathers followed and honored. The hearts swell with admiration as their characters are

brought to us in authenticated tradition and in sparsely written history. It is cause of regret that neither is full nor infallible. The contests between the adherents of Gov. John Clark and Gov. George M. Troup, growing out of temporary differences between people of the same aim and common destiny, are still in the memory of the old men of the State; and the complexion of their politics and the status of their political alignments have often been produced by the prejudices engendered in those heated contests. They have been repeated and reproduced with changes of leaders and issues, and the efflux of time to the present. It has never been accepted as a mark of a bad man that his party suffered defeat under his lead. Racers have always been fruitful of excuses for the failure of a favorite steed, in the condition of the track, the mistakes of the rider, the health and keeping of the horse, and have been ready and anxious to risk the purse upon him in a second trial. So it has ever been with the people and the candidates of the Whig and Democratic parties of this State. I well remember the exultations of the Democrats, and mortification of the Whigs, when Charles J. McDonald was elected over their idol and model leader, Charles Dougherty, for governor, and later over William C. Dawson. And when the rejoicing was at the highest tide in the Whig camp, when George W. Crawford defeated the noble old Roman, Mark A. Cooper, in 1843, and the sterling and solid Mathew Hall McAlister in 1845. And again, 1847, the tide of victory was turned to the Democrats in the triumph of their graceful and gifted leader, George W. Towns, over Gen. Duncan L. Clinch; and in 1849 over the gifted, able, and accomplished Edward Young Hill. But these, like the contests of Gilmer and Joel Crawford, Lumpkin,

and Schley, resulted from the ebbs and flows of the tide of fortune of parties closely matched in leadership and in numerical strength. The beaten leaders were wounded and not slain; defeated and not conquered; not disgraced or disqualified from entering the recurring conflicts between the contending hosts.

Many of the leaders and ambitious aspirants have changed party alignments and associations. Such changes have been attributed by the parties they left to resentments and disappointments, and to hopes of better success in the ranks of the party to which they had been opposed of becoming leaders and obtaining office. But such changes have usually taken place upon the change of issues, or the action of parties upon public measures, affording plausible and reasonable grounds for what were commonly denominated political somersaults. And they have been generally attended with warm reception by the party to which they acceded. Parties were never otherwise than so in need of as to desire and give encouragement to new recruits, and to be able to see the most patriotic motives on their part; while the party losing the leader professed to find out then that he had always been selfish and actuated by motives of personal ambition.

One of the most potent agencies that have tended to make Georgia a great State was, that, on all the issues of the past, the parties seeking to gain or hold power have been so equally divided as to keep the leaders, and the party press, perpetually vigilant and active. The policy of putting forward the ablest and best men for public honors was dictated by the exigencies, and the requirement for men of ability and spotless reputation as standard bearers and leaders. The espionage or guard over the public officers by political opponents has always been

a security against their wilful or negligent dereliction in official duties. The parties were usually led by men of ability, fair fame, and ambition on either side, feeling that they were the custodians of the honor and reputation of their respective organizations. The leaders were followed and supported by people of a common blood and heritage, who felt the sacred duty and trust of ever seconding and sustaining their leaders. The natural result, among people who have a rich country, ease and exemption from toil, with leisure to devote to the matters of government, has been to make them intelligent in politics, and jealous of the fame of their leaders, and to erect a high standard of patriotism, and of official and personal integrity.

One of the striking evidences of popular virtue is that, from my earliest recollection, the most effective weapon with which to strike the enemy in a party contest has been to assail the candidate with whatsoever imparts personal dishonor, dereliction of official duty, or infidelity to any trust, provided the charges were true. But if false, they were the most powerful agencies of solidifying the party, and making its members active, and recoiled terribly upon the accusing party.

The active and controlling men are large parts of the sum total of the period, that must in some form, and to some extent, truly or erroneously, go into its history. But confidence falters in contemplation of the attempt to daguerreotype them, and to draw a picture to be seen after the objects have perished with the author and the heat and passion that are now realized shall have passed out of the sight and memory of men.

The State has a brilliant array of men in office. James M. Wayne, associate justice of the supreme court of the

United States, one of the men of large brain and good balance of mind of the old class of men still on duty ; John C. Nicholl, justice of the United States district of Georgia, holding the circuit and district courts of the southern district of Georgia at Savannah ; and the court of the northern district of Georgia, in which the jurisdiction of the circuit and district courts are blended, at Marietta. Both are men of learning and probity, and have the full confidence of the lawyers and people.

Joseph Henry Lumpkin, Charles J. McDonald, and Henry L. Benning, judges of the supreme court of the State. There are several superior court judges, who are perhaps inferior to them only in position, William B. Fleming, of Savannah, William W. Holt, of Augusta ; the bold, impetuous, and eloquent advocate without superior, the fearless, political speaker, and able jurist, Thomas W. Thomas, of Elberton ; Orville A. Bull, of La-Grange, who is a staid and steady, and sterling man, as well as cautious and well-balanced jurist ; James H. Stark, of Griffin, who came afoot to Georgia as a school teacher, and worked his way up to the level of the ablest and clearest-headed judges of the State. He is a man of terseness and brevity, and without eloquence, with a large heart and unbounded charity, of perennial humor and wit, whom it is easy to love as a friend ; Robert V. Hardeman, of Clinton, a ruddy, bland, well-rounded, and somewhat ponderous man, whose body moves slowly, and mind in like manner, but with great certainty and reliability, and a man whose integrity is so long settled as to never be mentioned ; Turner H. Trippe, of Cassville, who has been recalled to the bench in his advanced life, having served in that capacity many years ago ; James Jackson, of Athens, somewhat young, but honored and

true representative of a historic family ; Joseph E. Brown, of Canton, Dennis Fletcher Hammond, of Newnan, Alex. A. Allen, of Bainbridge, Peter E. Love, of Thomasville, A. E. Cochran, of Brunswick, David Kiddoo, of Cuthbert, Abner P. Powers, of Macon, and Edmond H. Worrell, of Talbotton.

David J. Bailey, of Griffin, a man of vigorous and bold mind, as lawyer and politician, and of tall and manly form, who has served with distinction in Congress, is the president of the State senate, and William H. Stiles who also represented the State in Congress with distinction, and the government of the United States as minister to Austria under President Polk, a man of elegance and polish, and a gifted orator, has accepted the honorable service of representative of Chatham county, in the Legislature, and is speaker of the House. Herchel V. Johnson is governor, and in the full splendor of mental and physical manhood.

It is noteworthy truth, that either but few men of feeble constitution, or short-lived tendencies, are called to high stations of honor in this State, or that such places tend to the promotion of longevity. All the governors who have been in office since John Clark retired in 1823, are still in life except George W. Towns who was somewhat frail, with all his grace of person, and John Forsyth, whose physical frame, and form and development, made him a marked man in any presence, and without superiors.

George M. Troup, whose life is a part of the history of this State for many years, is seventy-six years old, a large slaveholder on his plantations, with all the ease that wealth can purchase for the old, and all the freedom and independence of thought and speech that result from the remaining vigor of his strong and fearless mind.

Wilson Lumpkin, aged seventy-four, William Schley, aged seventy-one, and George R. Gilmer, sixty-six, all men of above average native capacity, and of large experience in public service, and of unquestioned probity and patriotism, are in the ease and comfort of home in private life, enjoying the reward of conscious public virtue and fidelity, and of duty well and faithfully performed. George W. Crawford, one of the most successful and popular of the modern governors, and one of the best of the old Whigs, lives in the ease of his private fortune, and declines the public honors in the gift of his party. He is fifty nine years old, and well preserved. Charles J. McDonald, after retiring from the executive office, pursued his law practice with success, and now discharges the arduous labors of justice of the supreme court; and no judge of that court since its organization, twelve years ago, has died.

Howell Cobb, one of the marked men of the State and of the Union, is still a comparatively young man. He was speaker in Congress before he was governor, and on his defeat for United States senator retired to private life until the next election for Congress in his district, when he accepted service in that body. He is supposed to be on the high road to the presidency of the United States by those who best comprehend his rare combination of mental powers and popular manners, his deep and unswerving patriotism, integrity and fidelity, with a large measure of ambition for that extraordinary distinction.

In Congress the array is exceptionally brilliant—Robert Toombs, one of the old Whig leaders, is a Democratic senator, with Alfred Iverson, an old Democrat.

In addition to Howell Cobb, who has returned to the House, we have one of the brightest intellects of the

Union, who has been constantly a member since 1842, Alexander Hamilton Stephens. Hiram Warner, who had served in early life in the Legislature, three terms as judge of the superior court and one as justice of the supreme court, after several years' retirement, represents his district as an old line Democrat. John Henry Lumpkin, the nephew of Wilson and Joseph Henry, who is an old Democratic leader of Cherokee, Georgia, has been solicitor, judge, and had large experience in Congress, with fair abilities and great personal fidelity and popularity. Nathaniel Green Foster, a man of splendid form and person, an able lawyer and Baptist preacher, and James L. Seward, an able lawyer, represent the Savannah district. Robert P. Trippe, one of the favorite Whig leaders of middle Georgia, represents the Macon district. The Columbus district, where there are so many men of ability and distinction, is represented by the elegant, polished, and gifted young Martin J. Crawford, whose name and kindred are largely blended in the State's history.

Since the earliest of my recollection there has been an array of men of both parties in this State among whom it was an honor to be prominent and distinguished, some of whom have died, but very many still live.

I was an enthusiastic listener, not long since, to that man who among the living is as generally beloved as any, Joseph Henry Lumpkin, describing to me the men prominent in his part of the State in former years. He had exalted opinions of many of them, but among them all William H. Crawford was the Ajax in mind, and a man of true nobility of character with all his powers.

His language was, "He stood a full head and shoulders above all the men of his day in this State." He has now been dead twenty-three years, and if his great spirit ob-

serves the affairs of the country he so loved in life, no doubt he has joy in the height and grandeur to which his surviving admirer has risen. Lumpkin is in the full development of his physical and almost godlike manhood and intellectual vigor. He is not a politician from taste, though a decided Whig. He is a Christian and philanthropist and a scholar of large attainments, and an orator of great and almost magic power that distinguished him from his early youth. Standing aloof from political pursuits, extensive practice matured him as a lawyer and made him famous as advocate. Close application and labor on the supreme court bench, have ripened him into an able and profound judge. His uniform purity and virtue in public and private have securely established him in the confidence of lawyers and people of all parties; and the tribute of no one man could be of more value than that he freely and sincerely pays to the personal friend and political idol of his youth and young manhood.

But his senior brother, Wilson Lumpkin, who has maintained in public office in both Houses of the State Legislature and of Congress, as governor for two terms, and in all places of public trust the unbroken confidence of his party and the respect and esteem of all good people in public and in private, is a severe and sterling Democrat. He admired John M. Dooly, had stronger faith in his political wisdom and integrity. John M. Dooly was, from tradition and description by those who have seen him, a widely different man from Wilson Lumpkin whom I have seen and talked with often. Lumpkin is a plain-spoken, candid, old ruddy man with white luxuriant hair, a man of labor and toil, of truth without fiction or poetry, who won his way to public confidence and position and held them by common sense, common honesty, industry, and

integrity. Dooly was a man of electricity in body and mind, whose large, piercing black eye spoke itself in volumes of convincing power in harmony with his severe reason and logic.

Many of the old men regard Thomas W. Cobb, some Duncan G. Campbell, some Eli S. Shorter and some John Forsyth, as the greatest man of that period. The last named seems to deserve special mention in connection with William H. Crawford, on account of their respective long and brilliant career and opposing political opinions. They lived in a section of the Union not favorable to the highest national honor on account of political weakness; but it is doubtful if these men had many, if any, superiors in the Union in intellectual power or personal presence and magnetic influence over men. Both were of the highest type of physical development in the New World; both ambitious, daring, and brave. Forsyth was a little younger than Crawford and survived him from 1834 to 1841. They both came when young from Virginia, where heroes and statesmen were born, and transmitted the blood royal of republican liberty to their descendants. Crawford was in the Senate, and Forsyth in the House of Congress from this State in the early years of the century. Both have been distinguished in the Senate and House at different periods and as cabinet officers and as foreign ministers, Crawford in France, and Forsyth in Spain.

Crawford the defeated candidate for president of the United States, in shattered health, the idol of his countrymen, spent the last years of his life as judge of his circuit. Forsyth had been a United States senator as early as 1818, governor as early as 1827, and afterward returned to the Senate. Both died with the full confidence of their

countrymen, and the halo of public honors that has gathered around their long, historic, and brilliant exercise of the masterly powers with which nature had endowed them is a part of the treasure the living have in the lives of the dead.

A few years later, and coming near to the present, other leaders became prominent and powerful, were loved and honored by the people, and have passed away. Charles Dougherty, John McPherson Berrien, Andrew J. Miller, and James A. Meriwether of the Whigs; Walter T. Colquitt, Hugh A. Haralson, Joseph Jackson and George W. Towns of the Democrats. With the men of the middle section of the State, Dooly, Harris, Cobb, and Crawford lived and have been succeeded by Lumpkin, Junius Hillyer, Howell Cobb, Hope Hull, William C. Dawson, and Francis H. Cone. Charles Dougherty was an idol with the bar and people. No standard is regarded as too high by which to measure the power of his mind or the magnitude of his heart, and none too gentle or too pure by which to test his priceless social virtues. He gave his counsel and advice like the sun gives his light and heat; all could feel their warmth and see their wisdom. Nature made him great, but the whig party failed to invest him with political power. But his defeat only kept, as similar fortune has kept many of our best men who are fit as he was for any station, in the shades of private life.

His heart was in full accord with his mind; and his moral courage was equal to any emergency. He differed from Berrien, Dawson, Jenkins, Toombs, Stephens and other leaders of his party, in 1850, as to the true course for the South, on account of anti-slavery aggressions on the part of the North; and like a few others of the old Whigs younger in years, such as Lucius J. Gartrell, Wat-

son G. Harris, James L. Seward, and James N. Ramsey, took open position with the Southern Rights Democrats of the State.

John McPherson Berrien began the public service when young; died old after he had been in it nearly half a century, and without a spot or stain upon his escutcheon.

He was long engaged as solicitor, and afterwards judge of the eastern circuit; member of the Legislature; attorney general of the United States; and for many years, at different periods in the United States Senate; and during all his life as an eminent practitioner of the law. In all he was distinguished for his stability, dignity, urbanity, method and caution; and for the highest grade of forensic and parliamentary ability; and for devotion to his settled convictions of right. He was ten years the senior of his neighbor and personal and political friend, Judge William Law: who has been less in political life; but has much of the suavity and polish, dignity and probity, so justly and universally awarded the lamented senator, and is scarcely, if at all, his inferior as a lawyer and jurist.

The most remarkable democratic leader of the generation thus passed, and passing away in this State, was the contemporary, and, for a period, the rival of Judge Berrien for political championship in the Senate: Walter T. Colquitt. As a member of the House and Senate, judge of the superior court, minister of the Gospel, practitioner and advocate as a lawyer and political stump orator, his name is a household word, from the time of my earliest memory. His contemporaries at the bar ascribe to him as an advocate powers that were marvellous, not to say, irresistible. His style of oratory on the stump, where I frequently heard him, had no model, or successful imitator in the men of the period. Many men have strong passion

and power of delivery ; and can create intense excitement in large crowds of assembled masses in open air. But none were his equal in all the elements of a magic-working orator : intensity of his own excitement and physical action, the music and harmony of a powerful voice under the command of a powerful mind and body. And none approximated him when the magic of his almost resistless eloquence gave place, often suddenly, to his humor, unbounded in current ; and his wit, that flared as quickly and brightly as the lightning ; and was as terrible on his foes as the thunderbolt itself.

But his ardent love of truth made him too ardent a defender of right for the political times of his latter days. It made him a "Southern Rights Man," a "Fire Eater" as they were called, who made the cause of the South, in the attempt to stay the tide of Northern anti-slavery aggressions, paramount to parties. His strong enunciation in public and private, upon the magnitude of the impending struggle which seemed to him imminent, now so happily postponed, made him, in the opinion of many, an extremist, and sectionalist, looking to the dreaded calamity of disunion and revolution. And such views in reference to him, by the people, for the vindication of whose rights he was, in their judgment, too ardent, disarmed him in his latter days of much of the power he could have otherwise possessed over the popular will.

Hugh A. Haralson was not so brilliant or eloquent as Colquitt, Cobb and Johnson ; but was a man of fine presence and bearing. His personal integrity and fidelity to the people who honored him, close attention to official duty, gave him a strong hold on the affections of the people of western Georgia ; and made him a powerful Democratic leader. He was one of the few men whose terms

of public office did not fluctuate with the ebbing and flowing of the closely matched parties of his district.

One of the best men of the period was a man whose services were confined to his own State: the lamented Andrew J. Miller, of Augusta. Not ambitious, but devoted to the public good; modest, yet bold and fearless; an honest man loving the right, he was ever firm in maintaining it. He was not eloquent, but able; not haughty, but proud in the dignity of a true and noble man, conscious of the rectitude of his purposes and fearless of criticism or censure. Mr. Miller had but few superiors, but the friends of both, as well as political opponents, did not hesitate to rank above him, his neighbor and lifelong personal and political friend,—Charles J. Jenkins.

Mr. Jenkins is one of the truly great, as well as noble men of the age. Not the equal of Stephens, Toombs, and his successful rival, Johnson, in impassioned eloquence, in the capacity to move, stir and enthuse great multitudes of mixed people, his style, manner and bearing are more suited to leadership of intellectual assemblies. He is not the inferior of these in correctness, depth and vigor of thought. His style is as faultless, and his sentences as perfect. He speaks after deliberation, and never has to take back, modify or explain, in order to keep pace with other men or to drift with the popular current.

James A. Meriwether, another Whig leader, has also lately gone, of whose mental powers a higher estimate is due than many of his associates and friends were willing to award him. He had been a Whig member of Congress and served with distinction; had graced the bar and bench, and was at the time of his death an honored Representative of Putnam county, and speaker of the House of Representatives of the State Legislature.

The Warren Brothers.—These distinguished lawyers and prominent members of the old Whig party in southern Georgia are natives of Burke county. Lott was born in October, 1798, and Eli in February, 1801. The father, Joseph Warren, removed to Lawrence county, where he and the mother died while Lott and Eli were two of a large family of children, and were raised in Wilkinson county, by their brother-in-law, Reverend Charles Culpepper, who educated them in the country schools, neither ever having been at school in a town or village. Lott came to the bar at Dublin about 1820, was afterwards solicitor general and State senator. In 1828 was elected judge of the southern circuit, as a Troup man, was afterwards beaten for the office by Honorable Moses Fort, a Clark man, and removed to Americus, where he practised a number of years and removed to Albany; was elected to Congress in 1838 and 1840, and was twice elected judge of the southern circuit, and his administration is remarked for ability and integrity. He is, moreover, a Baptist minister of pure and spotless character. He, like his brother Eli, never drank intoxicating liquors, never chewed or smoked tobacco. Eli, when a youth, spent two years in Mississippi; but returned to Georgia and, in the office of his brother, studied law and was admitted to the bar in 1823. He served many years as a member of the Legislature of Lawrence county, in the House and Senate; and was often elected without opposition. He now resides at the beautiful town of Perry, in Houston county, and practises law.

It is doubtful if any State has produced such an array of intellectual men as Georgia at this period. In truth, the number is such, of men whose endowments would have made them noted in other times, that abilities alone,

without attending propitious circumstances, are not sufficient to secure more than ordinary local distinction. The general diffusion of education, and the manifest rewards of superior intellectuality have summoned the million to the competition, while many have been aroused to effort by the demands of poverty, or the urgent claims of business in their respective trades, avocations, and positions in life.

There are comparatively few who have been devoted to literature, or to study and learning, except as they seemed necessary in and ancillary to their success in other pursuits.

We have had and now have many preachers in the orthodox churches in this State, of pulpit eloquence that would have distinguished them in this or any country in Europe a century or two ago, who have been known only to a limited extent beyond the circle of pastoral duties. The State has given many able preachers to the church, such, for instance, as Lovic Pierce, James O. Andrew, Jesse Mercer, John E. Dawson, Alonzo Church, S. K. Talmage, Stephen Elliott, Ignatius Few, John Colinsworth, Charles D. Malory, Vincent Thornton, William Arnold, Andrew Hammel, Isaac Waddell, Asa Chandler, Billington M. Sanders, Cyrus White, James Henderson, Joel Colley, William Moseley, A. B. Longstreet, John Walker Glenn, Joseph S. Baker, Adam T. Holmes, Allen Turner, Samuel Anthony, Jesse H. Campbell, Jonathan Davis, Alexander Means, George F. Pierce, Henry H. Tucker, Jesse Boring, William J. Parks, William T. Brantley, Charles M. Irvine, James E. Evans, Russell Renneau, Caleb Key, Armenius Wright, Shaler G. Hillyer, Alfred T. Mann, Patrick H. Mell, E. H. Myers, Nathaniel Macon Crawford, John Jones, John S. Wilson, Edward Neufville, Henry Kollock, John

P. Duncan, Eustace Spear, Isaac Axson, — Hoyt, C. W. Lane.

Preachers, like lawyers, differ from each other in mental and physical constitution, in temper, manner, and doubtless in depth, stability, and sincerity of piety their chief qualification for their sacred mission. Those who have distinguished themselves, and accomplished great good, have differed widely in early advantages of education, and in their progress in and cultivation of general learning; as in the above short list, which contains some of the most learned, as well as a few whose learning was limited almost to the text and commentaries of standard authors on the Bible. They also differ widely as to their methods of preserving, to transmit to future generations, the benefits of their study and labor. Some will live in their sermons and theological disquisitions; while others, dealing alone in, and producing powerful effect by extemporaneous logic, pathos and eloquence, will live only in vague tradition, and that but for a brief period of the world's rapid march and change.

It is a period of silent revolution in the methods of propagating religion and gaining members to the Christian churches. Instead of appealing to the middle aged and the old, and relying on persons of mature mind and age to keep the ranks of the laity filled, and to supply the places of departing and retiring clergy, it is found that the children are more easily inducted, and more to be relied on for increasing the membership. Instead of converting people who are hardened in sin and inured to vice, the leading minds of the churches have directed their policy more to early training, and to bringing up people to be religious from childhood. Hence the Sabbath school system has become popular and in general

use. Men of ability and eloquence, instead of preaching to large crowds at camp and mass religious meetings, who are not often accustomed to hear eloquent discourses, now, on account of the increase of preachers and local churches, preach more often in church edifices and to regular congregations and organized churches; and hence it is more difficult to become widely known, even if there were fewer eloquent pulpit orators.

It is not so with lawyers and politicians. The contests over life, liberty, and property draw the people to the forum of public justice, and the antagonisms of opposing parties arouse the masses, and draw the people together to hear their chosen speakers and leaders. Political literature and news are far more attractive to the great majority of men than that of art, science, or the Bible.

It attracts attention that a large volume of legal talent in this State is in brothers, such as Alexander H. and Linton Stephens, Charles and William Dougherty of this State, and Robert Dougherty of Alabama; Howell and Thomas R. R. Cobb, Eli and Lott Warren of Southern Georgia; Daniel and Alexander McDougald of Columbus; Edward Y. of Lagrange, and Joshua Hill of Madison; Nathaniel and Albert Foster of Madison, Ebenezer D. and Charles G. of Newnan, and William McKinley of Milledgeville; John I. of Newton, and Stuart Floyd of Morgan county, Edmond H. of Talbot, and Bedford S. Worrell of Stewart county, John Worrell of Sumter county; Obadiah C. of Upson, and William Gibson of Warren county; Seaborn Jones of Muscogee, and John A. Jones of Polk county; Augustus H. Hansell of Pulaski, and Andrew J. Hansell of Cobb county; William F. of Coweta, and Gilbert J. Wright of Carroll county; William W. and Henry F. Merrell of Carroll county; Philemon and Edward D.

Tracy of Macon ; William and Charles D. Phillips of Cobb county ; Eugenius L. and Marcellus Douglass of Randolph county ; Richard F. Lyon and John Lyon of Dougherty county ; Eugenius A. and James A. Nesbit of Macon ; William K. De Graffenreid of Macon, and Benjamin B. De Graffenreid of Milledgeville ; Samuel Hall and Robert S. Hall of Macon county ; John McPherson Berrien of Savannah, Thomas M. Berrien of Waynesboro, and I. W. M. Berrien of Rome ; George S. and John W. Owens, Savannah ; Joseph E. and James R. Brown, Cherokee county ; Lucius J. Gartrell of Fulton, and John O. Gartrell of Cobb county ; George N. of Cobb, and Paul Lester of Forsyth county ; John R. and Thomas W. Alexander, Rome ; George D. of Cobb, and John H. Rice of Cass county ; Hiram and Obadiah Warner of Meriwether county ; John W. Barney of Jasper, and Thomas I. Barney of Morgan county ; Henry H. and William Cumming of Augusta ; George, John, and William R. Schley of Augusta ; I. T. and R. I. Bacon of Lagrange ; Samuel C. of Sumter, and William D. Elam of Marion county. A large number of whom have been prominent in the legal profession, and many of them in the politics of the State. But it only presents a partial list of the prominent and gifted men of this period.

Barnard Hill of Talbot ; David Irwin of Cobb ; Warren Akin of Cass ; Charles Murphy of DeKalb ; William H. Dabney of Gordon ; Nathan L. Hutchings of Gwinnett ; Junius Wingfield of Putnam ; James M. Calhoun and John Collier of Fulton ; David H. Vason and Henry Morgan of Dougherty ; Augustus Reese, Thomas P. Saffold and Isham Fannin of Morgan ; William M. Reese of Wilkes ; Edward H. Pottle of Warren ; Isaac E. Bower of Baker ; William C. Perkins of Randolph ; Eldridge G. Cabaniss

and James S. Pinchard of Monroe ; David W. Lewis of Hancock ; W. H. Dabney, of Gordon ; Thomas Chandler, of Carroll county,—are among the stable men of fair ability without brilliancy, and take high rank in their sections of the State.

Among the older class of able men are William Ezzard and Amos W. Hammond of Atlanta ; Iverson L. Harris and Augustus H. Kenan of Milledgeville ; Washington Poe, Absalom H. Chappell, Samuel Terry Bailey, John Rutherford, James I. Gresham, Henry G. Lamar of Macon ; Junius Hillyer of Athens ; William T. Gould, Ebenezer Starnes, John Millege of Augusta ; William S. Rockwell, William B. Flemming, the lamented Robert M. Charlton, William Law, Levi S. De Lyon of Savannah ; Thomas Butler King of Glynn county.

Among the brilliant men in middle age are John E. Ward, Francis S. Bartow, Henry R. Jackson, Alexander R. Lawton of Savannah ; John W. H. Underwood, Augustus R. Wright of Rome ; William Hope Hull, and Cincinnati Peeples of Athens ; Luther J. Glenn, Lucius J. Gartrell, Basil H. Overby of Atlanta ; William W. Clark, John A. Tucker and Burwell K. Harrison of Stewart county ; Robert McMillan of Habersham county ; Thomas W. Thomas of Elbert county.

Among the able and prominent men of middle age are Edward J. Harden, Thos E. Lloyd, Henry Williams of Savannah ; Robert P. Trippe of Monroe ; Lucius H. Featherstone of Heard county ; Blount C. Ferrell of Troup county ; Robert J. Cowart of Atlanta ; Elijah W. Chastain of Gilmer ; H. S. M'Kay of Sumter county ; Samuel Y. Jamison of Union county ; Richard M. Johnson of Hancock ; James Milner of Cass county ; Andrew H. H. Dawson, J. M. Lovell of Savannah ; Richard Simms and Joseph Law of

Bainbridge; Samuel S. Stafford of Early county, Amos T. Akerman, Robert Hester of Elbert county; Mial M. Tidwell of Fayette county; Thomas Morris of Franklin, Benjamin Oliver of Heard county; James P. Simmons of Gwinnett county; Andrew J. Hansell of Cobb county; James A. Pringle of Houston; Samuel P. Thoward of Jackson county; George A. Hall, Obadiah Warner of Meriwether county; Hartford Green of Pike county; Leonard T. Doylall of Griffin; Robert S. Burch, A. T. McIntyre of Thomas county; John B. Morgan of Troup county; Noel B. Night of Cobb county; Porter Ingram of Harris.

Among the prominent younger men my seniors, some of whom are able and brilliant, are Logan E. Bleckley of Atlanta; Hugh Buchanan of Coweta; James M. Smith of Upson; Levi B. Smith of Talbot; William A. Harris of Worth; Willis A. Hawkins of Sumter; John L. Harris of Glynn; Ambrose R. Wright of Jefferson; William T. Wofford of Cass; Edward Dale Chisolm of Polk; Thomas Harde-man, Jr. and Alexander M. Spear of Bibb; James N. Ramsey and James M. Mobley of Harris county; Alfred H. Colquitt of Baker; Benjamin H. Bighan of Troup; Joel A. Billups of Morgan; Leander W. Crook of Chattooga; Rufus W. McCane of Spalding; W. S. Wallace of Taylor; George T. Bartlett of Jasper; Alexander Pope of Wilkes; James R. Lyon of Butts; Miles W. Lewis of Green; Richard H. Clark of Baker; Samuel Hall of Macon; John A. Jones, Jr., Beverly E. Thornton of Muscogee; John Jinks Jones of Burke county; Charles W. Mabry of Heard county; Daniel S. Printup of Floyd county; Osborne A. Lochrane of Bibb county.

There are many men who have attained political distinction who are not lawyers, among them the learned and eloquent Dr. Homer V. M. Miller of Rome, a man

long distinguished as the Demosthenes of the mountains, who has never been elected to a public office; the brilliant and eloquent James Watson Harris of Cass county; Gen. William B. Wofford of Habersham; Thomas Stocks of Green; Gen. Peter Cone of Bullock; Joseph Dunnegan of Hall; Dr. George D. Phillips of Habersham; James Gardner and Thomas C. Howard, who retired from the law practice early to enter upon the brilliant career of political editors; Theodore L. Guerrey of Randolph; and John D. Stell of Fayette county; Simpson Fouche of Floyd county; Mark A. Cooper of Cass county.

These lists do not embrace by far all, but present a fair representation of the prominent Georgians of the period, extending as it does from the old and retiring, down to many not much older than myself whose race of life is still to run.

There are two men now in advanced life, about whom a separate volume might be written, more important to the prosperity of the State than any of our politicians, who long ago retired from law and politics to carry forward to its grand success the great railway improvement of the State; these are Richard R. Cuyler of Savannah and John P. King of Augusta.

If each individual mentioned were the subject of a truthful sketch, there would be manifest the greatest possible diversity of talents and capabilities, of learning, of habits of industry and application, of style and manner, of culture and taste, as well as moral character. Many of them are church members, and some are consistently religious; others far less consistent in practice. Many who do not profess to be religious and are not church members are stable in morals, and noted for purity of character in public and private. Some are addicted to drunkenness,

some to gaming, and some to other sensual vices; but the array of personal integrity, honor, morality, and purity of private character, is lovely to contemplate by all who are interested in the preservation of the glory of the present and transmitting it to future generations.

I present five men together whom I closely noticed because of their eccentricities as well as power and influence, and their striking diversity of character: Owen H. Kenan, John A. Jones, Thomas A. Latham, John Ray, and William H. Underwood. None of them are noted for piety, or the use of religious pretension for worldly aims. Jones, Kenan, and Latham defy the Church and society in some of its forms and requirements. Like many of our public men they suffer the misfortune of being addicted to profane swearing in public and private, a mode of parlance and emphasis that, like that of drinking in high life, has to be tolerated on account of the respectability and number of men of wealth and social power who follow it; but which lowers the dignity and weakens the influence of many of the able men of the State.

Kenan was prominent as a lawyer and judge, outspoken, impulsive, and ardent in everything in which he engaged, exacting and dictatorial, as well as honest and brave. A man of tall and large frame, commanding manner and air, and severe rough features; wore a double-breasted coat buttoned around his chest, and a heavy watch-chain and seal, and the balance of his toilet in negligence. He is the subject of many anecdotes and narratives among the old lawyers. The latter years of his life have been on a rich farm in Murray county, surrounded by wealth and ease.

Jones, who also has retired from practice on his estate

in Polk county, is stout and vigorous and hale at three-score and ten, or thereabouts, and has all the fire and courage of a man of forty. Though not regarded as the equal in law learning and power as an advocate with his brother Seaborn, he has been when pursuing the practice an able lawyer, and was for a short time judge of his circuit. He is a severe advocate, a generous and confiding friend, and a vindictive foe; has reduced Jefferson's theory of State rights and sovereignty to extreme radical ideas and is an intolerant partisan. He was for several years prominent as member of the Legislature, and is the author of the Bill of 1847 establishing or allowing a short form of pleading which dispenses, in great part, with legal knowledge and skill in the pleader, the labor of drafting, and has therefore come into common use in our courts.

His hatred to the people of the North and of the government of the United States knows no bounds, and he lives in hope of the political separation and independence of the slaveholding States—wears his hair and beard long, and openly and often swears never to shave until the State of Georgia shall have seceded from the Union.

Thomas A. Latham, of Campbell county, is a man of more general and pleasurable observation and remark, whom everybody who knows him, in defiance of the ordinary basis of full trust and confidence, naturally and voluntarily likes and derives amusement and pleasure from because he is ready to do good and be kind to all, and can be provoked to hurt or harm none save those who are so unwise as to assail him or depredate upon his rights. He is in excess of six feet in height when at ease, and a good deal so when aroused, and is of form and size to match. Body, head, and features large, the skin that

shows age, as well as gray hairs, is of coarse cellular tissue. He stands with his body much in advance of his lower limbs and feet, which are also large. He adheres to the old method of tying his huge cravat and to the gorgeous ruffle bosom shirt, to the double-breasted, long swallow-tail coat, and allows on big occasions the expansive bandanna handkerchief to hang out gorgeously from the rear pocket. When quiet he is almost as still as a tombstone, when aroused he is almost a volcano in human form. The current of his affections is like a river in its flow, and that of his invective and resentment like the lava from Vesuvius.

He prides himself in being from old Virginia and in all the amenities of the primitive stock of gentlemen when he is amiable, gentle, and kind, but defies all forms and ceremonies when the exigencies of the occasion, or the fury of intoxication, disengage the sleeping elements of the antagonist. We regard him as a careless practitioner, but in the cases in which he prepares he is powerful and terrible. His voice is strong like his body, his speeches are loud; his capacity to unsettle the dignity of a court-room by ridicule and anecdote and physical performance to suit are unsurpassed, and he carries this rare faculty into the walks of private life—often sits in apparently profound abstraction, undisturbing as a statue but a close listener to the running conversation of the company, and, when the subject has been worn threadbare or takes an unsatisfactory turn, suddenly flares his sententious wit and ridicule, or his commendation and applause, like a shooting meteor that startles, delighting or discomfiting, and often breaks it up into a storm of merriment and laughter. All his instincts and emotions, as well as his education and practices, are democratic. In private in-

interview he is gentle, mild, generous, and confiding; in debate, public or private, never fails to become boisterous in tone and manner in praise of his own and denunciation of the opposing party.

John Ray of Coweta county, is of Irish birth and brogue; has a well-rounded, though not tall body; large head, round full features, and prominent, full dark rolling eyes. For the last quarter of a century has been prominent as a lawyer, advocate, and democratic orator in western Georgia. Honorable, honest, consequential in air and manner; sensitive and brave, suspicious of foes, and confiding with friends; the theme and occasion of many bar anecdotes, which his brethren seldom venture to narrate in his presence. He now retires in the feeble health of advanced age, in ease and wealth.

William H. Underwood, differs from them all. He was naturally of well-formed body, and head, and face,—the former somewhat sunken, and the latter wrinkled by age before I ever saw him. He was of early, severe study and extensive learning, and memory tenacious to old age. He was a lawyer by life-long practice, except when he performed the duties of judge in early life. He came to Cherokee, Ga., long before my day here, from Elbert county, where he was accustomed to meet Dooley, Thomas W. Cobb, Jephtha V. Harris, William H. Crawford, Duncan G. Campbell, Tait and Blackburn, and other great lawyers of the early part of the century.

His observation was close, and his criticism incisive. He detected faults in all men, and their faults made stronger impressions than their virtues on his mind, that revelled in its own freedom, and defied the opinions of those of weaker mould. He despised two classes, and could scent their qualities in more men than it was popu-

lar to avow and publish. One hypocrites in religion, the other demagogues in politics.

He never was a democrat as the word is now interpreted, or a republican as it was understood in his early life. He has always believed in a strong general government; had a contempt for clamors of State rights in all their forms, and was one of the few avowed federalists of this State, and was the tool or slave of no party. He was a whig, because the whigs were opposed to the democrats; not that he loved whigs, but hated the democrats, as a party, and condemned the political ideas that were the basis of their organization, and popular element of success. He had profound respect for leaders he believed to be able and patriotic and honest, who were few in number.

His cynic wit, so proverbial, and so dreaded by court, bar, and social companions, was the natural result of his order of mind, his education and methods of study, his life and honest opinions of men and things. And it came unbidden and welling up like the water from a fountain acted on by the law of gravity. If it pleased others he was happy; if it hurt others it wounded him in turn.

I, like others, long stood aloof in fear of the bristles that pointed gangrene at my feeble powers and efforts. But I lived to get beyond the icicles and crust he presented to the world, and to find that in the rear of it all there was the big, warm heart of a noble old man, who would do all the world good, if in his power.

William Dougherty and Henry L. Benning are men of the Columbus bar, whose fame rests, the first on his achievements and powers as a lawyer, the other, as lawyer and judge of the State supreme court. Dougherty is of the splendid physique of his deceased brother Charles;

and, having passed the first half century of life, is so fresh in body and mind as to bid fair to live another fifty years. He, like Benning, is moral and temperate in eating, and abstains from liquors and tobacco, and like him, intemperate in labor. There are but few with whom to compare him in order to fix his standard of ability. He is genial in social life, stutters slightly and occasionally, though fluent in conversation, and is full of heart-stirring and mirth-provoking anecdote. He is powerful, logical, brief and bold in argument, and almost irresistible before court or jury. He is withal an enemy, and the subject of enmity, because he has long been the hero of a financial warfare against the stockholders of certain banks that failed, with a large number of their bills in circulation in the hands of the people, to make them liable to the holders of those bills. He has a large personal interest as well as great stock of professional ambition and reputation in the issue. The war involves many people of wealth and influence, and calls forth the strong men of the bar in that part of the State to protect and defend the stockholders against the suits on the defunct bank bills.

Henry L. Benning was one of the able lawyers arrayed on that side ; was for some of the parties and son-in-law of Seaborn Jones, who was a party largely interested as well as leading lawyer in the defence. Such was the situation at the time of the election by the Legislature of Benning as associate justice of the supreme court, in 1853, against Judge Nesbit, whose opinions were not favorable to the relief of the stockholders. When the questions came before the supreme court, in cases in which Benning was not of counsel, but involved the same questions as the cases did in which he had been employed for other parties, Mr. Dougherty challenged his right to preside

and try them with the two other judges, and demanded that he should retire from the bench. Benning, with a firmness strongly tested by the sentiment of the bar of the State against it with but few exceptions, overruled the challenge ; holding that he was not legally disqualified by his having been employed and formed his opinions from investigating the questions in other cases before his election as judge, or by his relationship to persons interested in the questions and not parties in the cases before him. That it was a stern duty imposed by law and his oath of office, which he cannot shirk or evade, to preside in all cases that come before the court, in which, by his election, qualification, and commission, he has had given to him power and authority to preside. The lawyers of the State not interested as counsel differ. Some able and stable men sustain Benning, while a majority think he should have retired. But even some of those agree with Benning in his judgment and dissenting opinions as to the liability of the stockholders after the dissolution of the corporations. The discussion extended to the press and political circles, in which it was freely asserted that the political influence of the bank stockholders was brought to bear upon the Legislature in the nomination of Benning over other prominent and able aspirants, and in his election ; and as freely asserted, on the other hand, that it was an element of weakness, on account of the popular sympathy in other parts of the State with the bill holders. And it was also charged that the refusal to re-elect Judge Nesbit, and the election of a Democrat, was a violation of the implied compact between the parties, when the court was organized, not to make politics a test in the election of judges. It has, however, been the custom of both parties, with but few excep-

tions in the past, to elect their own men to all offices, when they had the numerical strength to do so. Benning, like Dougherty, is a man of learning, research, and ability as well as courage, integrity, and purity of private character.

Columbus has furnished a magnificent cluster of lawyers besides Colquitt, Dougherty and Benning, some of whom have figured largely and others sparingly in politics. Among the more noted, Daniel and Alexander McDougald, Joseph Sturgis, Alfred Iverson, Marshall J. Welborn, Grigsby E. Thomas, Adam G. Foster, Hines Holt, James Johnson, and Seaborn Jones, to whom, many who knew them all well, award, that in some respects, and in the general average of powers as counsellor, practitioner and advocate he was somewhat the superior.

Two men among the most perfect models of their respective style of man, and among the most universally beloved of the old Whig leaders who retired from high official position on the ascendancy of Democratic power in the Legislature, one from the United States Senate, the other from the supreme court bench, were William Crosby Dawson, lately deceased, of Greensboro; and Eugenius A. Nesbit, of Macon, still living. Dawson has been distinguished for all that good will to men, kindness, and urbanity can produce in a single character. A man of medium size and height, with large, broad nose, somewhat flat face and forehead, and eye radiant with intelligence, and inviting good nature and charity, indicating his generous and genial social nature to all who ever approached him. He was endowed by nature with only fair average abilities, which have been largely cultivated at the bar, on the bench, in both houses of Congress, and as grand master of masons.

Nesbit is a model man in form of body, arms, hands, neck, head and face ; but is small, far below the average size of the Anglo-Saxon in this State, but is of durable temperament and elastic physical constitution. He is of unostentatious grace, self reliance, somewhat severe dignity, and a presence that forbids familiar, vulgar approach. He is of pure public and private character, and a Christian. His career as a Whig leader and as representative in Congress was popular ; and his research and learning adorn the early volumes of the supreme court reports, where his opinions are recorded, and which take high rank with American jurists.

He is contemporary of Samuel Terry Bailey, of Macon ; and Dawson, with Francis H. Cone, of Greensboro ; both lawyers of superior ability, learning and large success, of northern birth who came in early life to this State, but who differ widely from each other. Bailey's habits of thought, study, and practice caused him to stand somewhat aloof from the brethren in social life, but he was himself always thoroughly prepared, and brought to every contest a large measure of severe criticism.

Cone, large and portly, with a piercing black eye, was always free and full in conference ; bold, confident and defiant in argument and tactics before any court, high or low, or the jury. As lawyer, judge, legislator, he was thorough and profound ; and in social life, as playful as a boy. His humor is a perennial spring, and his anecdotes take the widest range, from the grave and learned, to the ridiculous and gross. As a Democratic leader he lost caste with the people after his encounter and stabbing Mr. Stephens, in 1848.

Judge Nesbit is also contemporary at Macon with Absalom H. Chappell, a man of tall and stately dignity, and

great integrity, as well as learning and ability. Like most of the great old lawyers, he is not inclined to accept any legal proposition as settled; but prepares thoroughly on authority to support every possibly disputed premise, and exhausts every point in debate, never considering his work done until the edifice of an unanswerable and exhaustive argument is complete.

Three of the ablest men of upper Georgia are at Rome: Augustus R. Wright, John W. H. Underwood, and John Ramsey Alexander.

Wright is of somewhat spare and erect, but of strong and durable as well as active body; is of the sanguo-nervous-bilious temperament, full of emotion, impetuous and rapid in all his mental operations. He loves truth and despises consistency when the two seem to come in conflict. Has the reputation of being changeable in religion and politics, having in turn been a preacher of the Methodists and Baptists, and a leader of the Whig and Democratic parties. He is a man of learning as well as accurate thought, never was a student in the ordinary acceptation of the word, for he is a genius, takes in, absorbs and comprehends things without mental plodding. His speeches always draw crowds, at the bar and on the hustings; full of wit and humor, with a thorough understanding of human passion and sympathy. His voice is like a clarion in clearness and expansive power; and in issues that call forth his great exertions his eloquence rises to grandeur and sublimity.

Underwood has the advantage and disadvantage of having a distinguished father in the same profession. The one to be put forward under favorable auspices in youth, the other the tardiness with which the public accepts the conclusion that the son is equal to the father in real merit

and ability; because not all the sons of great men are great; and even where they inherit the parental mind, by reason of the care and exemption from toil the father's success brings to the sons, and the groundless confidence reposed in ancestral greatness as a safe passage through the world, the sons often fail; but not so of Underwood. He is of fine form and person, of fluent language and delivery in speeches and in conversation. His voice is clear and distinct, though not capable like Wright's of expanding and enlarging in volume with the passion and power of the oration. But, nevertheless, he is a powerful and effective advocate and stump speaker, a learned and able lawyer and counsellor. His father's wit is a thunderbolt that regards not the company or presence, and consults no man's opinions or feelings. His is the gentle and refreshing breeze, and sometimes almost a gale, that fans and cools and enlivens all men, and blows nobody ill.

Alexander is not distinguished for wit nor eloquence, but is a sound and safe counsellor and effective and logical advocate whom passion never betrays into error; a safe ally and a dreaded foe; open, candid, true and unimpassioned. All three of the men are of pure private character.

Henry R. Jackson, of Savannah, and William Hope Hull, are men of rare production, universal confidence, and general admiration. The first the cousin, the latter the neighbor, and both life-long bosom friends, of Howell Cobb, and both Democrats from youth. Hull is much like Cobb in size and form, without favor of features, and in breadth, quickness, and power of mind, which has been confined mainly to the law practice.

Jackson was an ardent and impassioned student and advocate, full of ambition and chivalry, and proud custodian of the honor and dauntless courage as well as ability

of his historic family. He was a gallant commander of a Georgia regiment in the late Mexican war; has been an able and inflexible judge, and an eloquent and effective Democratic orator. He is, withal, a man of literary taste and cultivation, and of rare poetic gifts. As lawyer, scholar, and patriot, he is loved by his able associates, seniors and juniors, of the Savannah bar, and by the people of the State.

Among the multitude of able and promising of the younger class of my seniors, I mention particularly six a little older than myself, and nearly of equal ages, who are endowed naturally with great minds, each having the most abundant capacity to sustain himself in any height to which the political seas may drift, or the storms of party drive him. Robert G. Harper, and Lucius Q. C. Lamar, of Newton; Thomas R. R. Cobb, of Clarke; Linton Stephens, of Hancock; Benjamin H. Hill, of Troup; and Joseph E. Brown, of Cherokee county.

It is rare to find among so large a number approximating them, in any State or country, such a number of contemporaries who are the equals of these; and they all differ from each other in mind and temper.

Harper and Lamar, after graduating at Emory college and tarrying in the vestibule of court till their beards grew, set out as partners in law practice at Covington. Harper is gentle and modest, but firm, resolute, and persistent. The rays of the diamond sparkle more brightly as the scintillations of genius are struck by action and contact, and as the obscuring rubbish of modesty and unpretension is thrown aside, leaving bare to the gaze of the most astute critic the God-made man of worth; and yet he is less known, less appreciated, applauded and honored than the others.

Lucius Lamar is of over-endowed brain and nerve power, is charged as if by a galvanic battery in all his physical and mental composition when called forth to make intellectual effort. Impetuous from inherited love of right, and antipathy to wrong; honest himself, he demands more than mortal effort and ambition can achieve; that is, to see all other men true and honest. No power is too high to be questioned, no influence potent enough to awe him. Disappointment may await, but its augurs have no terrors for the brave heart and buoyant hopes of this young man eloquent, who comes heralded by parental greatness and powerful family prestige.

Thomas Cobb and Linton Stephens are alike in one incident and barrier to their hopes of public political honors. They have each a senior brother among the popular and ambitious men of the period; each has an idol in his own household, above self and next to the Deity. Cobb is a great, learned, laborious, untiring, ambitious lawyer, while his brother Howell, with a larger brain but none the more powerful, carries all his plans and aims into the line of political promotion; and the junior is none the less fit for high position and power in the State.

Linton Stephens differs from his brother in all but great mind, courage, integrity and fraternal devotion. Alexander has always, when composed, looked like he was almost ready for the undertaker. Linton has a bilious, nervous composition, with a strong frame and hard muscles that can stand labor and endure exposure. He is brave, and despises the opposite quality; confident in his own judgment, and contemns the feeble reasoning power that reaches an opposite conclusion. Careless in manner and in dress, fears no personal opposition or danger, and carries his life in his hand for the friends he confides in

and loves, yet assails or invades none who assail or invade not him. He is shaded by the fame of his brother, but for powerful, severe logic, and aggressive, persistent, exhaustive analysis and argument he has but few equals in the State.

Benjamin H. Hill is one of the rare young men of the age, and exceeds them all in the most coveted and courted gift of political aspirants,—popular eloquence. He has full self control upon all emergencies, at the bar of the supreme court, before the judge of the circuit, or the jury, where he is irresistible, and in the popular meetings, large and small.

Nature made him an orator by giving him a commanding and attractive person, a large and active brain, and unbounded capacity for utterance. He has the physical power to rise with his own estimate of the magnitude of his theme, and I have never seen his spirit fag or his voice fail to meet the enormous demands of his fruitful imagination. He has the courage to assert any premises that may be needed, and it puzzles the severest critics to detect the error of argumentation to sustain what he asserts.

Most of the old party leaders in opposition to the Democracy have come over to us, and Hill has a limitless field in which to exert his power before the people in opposing the resistless career of the party.

Joseph E. Brown has been reared in the mountain district of Cherokee, Georgia; comes of the race of hardy, honest and true men of the times. He has the largest and best balanced brain of all the young men of the State and scarcely has an equal in energy and perseverance.

As orator, in the popular and appropriate understanding of the term, he is barely the equal of either of the

five alluded to ; but as a debater he is the inferior of none, and the superior of most of them. He is never caught unprepared, and never meets an emergency, however sudden or great, which he cannot summon resources to meet. Never is a blow aimed at him or his cause, that he cannot ward off or parry. He was a lawyer at an early period of life, and almost as soon, among the front and able lawyers of Cherokee, Georgia, feared and respected for his masterly powers. He is cautious, watchful, never tires, or leaves any means untried which promise success, and never leaves a fortress or battery of his adversary unassailed.

An ardent Democrat from his boyhood, a leading member of the State Senate at twenty-eight years of age, presidential elector at thirty-two ; active in all the popular elections and debates since he came to manhood, he possessed the full confidence and challenged the full support of his party in the election for the judgeship, an office not political, against the popular incumbent, David Irwin, one of the ablest among the old judges and one of the purest and best men of the circuit. The bitterness and prejudice growing out of the race, connected as it was with the political strife between the Democratic and American parties, soon subsided after he entered on the discharge of official duties. Firm, impartial, vigilant, sober, moral, fearless in the administration of civil and criminal law, the people of both parties approve and sanction his election. Thorough in knowledge of the law and practice, and with abilities that would distinguish him in any court of the State, the lawyers pronounce him an able judge.

There are four men in the State to whom the public mind turns as naturally, when the matter of intellectual greatness, moral and political power with reference to our

own men, as it has done to the trio of Clay, Calhoun and Webster in the national firmament. These are Alexander H. Stephens and Robert Toombs of the Whigs, and Herschel V. Johnson and Howell Cobb of the Democrats.

Cobb is the youngest, now forty-two years old. He was a college graduate, a lawyer, and the solicitor of his circuit before he was twenty-two years old; was elected to Congress and served four consecutive terms and was speaker of the House, at the age of thirty-four. Differing from Governor Towns, Ex-governor Charles J. McDonald, Walter T. Colquitt, Herschel V. Johnson, and a majority of the leading Democrats upon the proper course for the Southern States to pursue, upon the great territorial slavery compromise of 1850, and agreeing with Berrien, Jenkins, Toombs, Stephens, and the majority of leading Whigs of the State who favored accepting it as a final adjustment, he came home, advocated and defended the measure known as the omnibus bill, justified the national government in adopting it, and opposed all ideas of resistance to it on the part of the people of the slaveholding States.

The General Assembly called a State convention of delegates, to be elected by the people, to determine the course that Georgia would take on account of the passage of the bill by Congress; the points of which were: abolition of the slave trade in the District of Columbia, and a law to carry into effect the provisions of the Federal constitution for the restoration of fugitive slaves in the free States to their owners in the slave States; the admission of California as a State with an anti-slavery constitution, alleged to be fraudulent; the organization of the territories of New Mexico and Utah, and the payment of \$3,000,000 to Texas to cede part of her slave territory to New Mexico.

Many of the old Whig and Democratic leaders accepted seats in the convention ; some of the old Whigs as Southern Rights men, but the most of them adhering to the Union ; some of the old Democrats as Union men, but the majority as opposed to submitting without resentment or resistance in some form to the injustice and aggressive spirit of the North and the general government toward the South and the institution of slavery.

In this convention, Charles J. Jenkins was the Madison "come to judgment." He stood like a great, towering and impassable statue by the paths that seemed to lead to degradation and humility on the one side, or to disorder and strife on the other. He rose above the stratum of the unconditional submissionists, and bowed the tall heads of the immediate resistance and secession men to the true level on which all could meet without dishonor and without revolution. The address and resolutions accepting the settlement, and setting forth contingencies for resistance in the future, were adopted, and the convention dissolved. But the issues that had called it into being had dissolved for the present the organization of the national Democratic and Whig parties in the State. At the State election of 1851, the parties were Union, composed of the majority of old Whigs and minority of old Democrats ; and Southern Rights, composed of a majority of old Democrats and minority of old Whigs. Cobb accepted the candidacy of the Union party, and Charles J. McDonald of the Southern Rights party, for governor.

The contest was exciting and the discussions on the hustings were of the kind, and by the men, to arouse popular passion to its utmost height. McDonald was not a popular orator like Johnson and other Democratic leaders and Southern Rights Whigs. The incomparable Walter

T. Colquitt was still in the splendor of his oratorical powers. McDonald was supported by many of the most popular and gifted men of the State.

Cobb made the canvass in person, and was supported by the matchless and irresistible eloquence and vast personal influence of Toombs, Stephens, Berrien, Jenkins, and others. He was sustained by some of the old Democratic leaders, among the most popular of whom was John Henry Lumpkin.

The people were excited and resentful, but loyal to the Union. At heart they were opposed to submission to wrong, but saw no method of resistance but revolution and violence, to which they were unwilling to resort for existing causes. The discussion before them tended to strengthen this feeling; and the popular judgment in favor of accepting and acquiescing in the compromise settlement. The cause of Cobb gathered strength, and that of McDonald declined; and when the election came, the majority was overwhelming for Cobb.

The Legislature elected at the same time was also overwhelmingly of the constitutional Union type, based on the acceptance of the settlement and preservation of the Union on the terms set forth by the convention known as the Georgia platform; and thus ended the dispute about resisting the government at this time.

The termination of the issues that called the Union and Southern Rights parties into existence dissolved again their elements, and revived the old party organizations. The Union Democrats aligned themselves with their national party for the presidential election of 1852; and the Whigs of the Union party rejoined their national allies.

Governor Cobb soon found himself in antagonism to the

leading men who had contributed most to place him in power, and in full accord and sympathy with the public men who had been his former political allies, but many of them vehement in opposition to him as a Union Democratic leader.

When the national bugles were sounded, summoning the clans to the national conventions, the old Whigs and old Democrats, having accomplished their joint aim on a temporary question, parted in peace. The old Democrats who had learned to love their new allies, the Southern Rights Whigs, went with the few that still adhered, in the most perfect harmony and confidence, into the affiliation of the national Democracy. They had been in a minority as Southern Rights men, but soon found themselves in the majority as re-organized Democrats; and found themselves elevated above their former triumphant Union Whig opponents by having a national and State government, both Democratic; Franklin Pierce was president, and Howell Cobb governor.

As the term drew to a close, Cobb had served the purposes of his candidacy and election. He preferred the national to the State service, and chose to retire voluntarily from the executive office.

The old Democrats of the State had now the opportunity to honor one of the men who had stood firmly for the cause of the South, and had gone down defiantly with the southern wing of the party, but who was then in accord with all the principles and aims of the national party; and the banner was confided to Herschel V. Johnson.

The old Whigs who had reunited with their national party in 1852, were disappointed in the result of their presidential nomination, General Winfield Scott. They

were not satisfied with the party platform adopted, or General Scott's letter of acceptance. Taking the man and his antecedents, the platform of resolutions declaring the principles and policy of the national party, and the letter of the candidate, all into critical review, they regarded the action of the party in national convention as giving effect to the anti-slavery and anti-southern proclivities of a large portion of the national Whigs. Those leaders, prominent for the presidential office, who were constitutional in political creed, regardless of their abstract opinions of slavery, had been thrown overboard; and to their minds, as described and expressed by themselves, the national party was abolitionized, and unsafe for the South.

Mr. Stephens, Mr. Toombs, Mr. Jenkins, who had been reared, and become leaders, and won their laurels in the battles of the party, supported and seconded by many of the old Whigs of this and other southern States, rebelled, and refused to support the candidate and the party as organized and championed.

The result was a vote expressive of their principles, to which, as Whigs, they had long adhered; and also of their opposition to the national Democracy with Franklin Pierce as the candidate, and which was intended to be complimentary to the men for whom they voted—Daniel Webster, who died after he was nominated and before the election, and Charles J. Jenkins, the author of the Georgia platform.

There were a few men in this and other Southern States too extreme in their pro-slavery and sectional feelings and opinions to affiliate so soon with either of the national parties, who cast their votes for George M. Troup of Georgia, and General John A. Quitman of Mississippi.

But in 1853 the chasm that had stood open, and divided the Scott and the Webster Whigs in this State had been closed, and the wounds inflicted on each other in the temporary breach had been healed; and with great union and enthusiasm they rallied to the support of Charles J. Jenkins, for governor, against Herschel V. Johnson.

The canvass was a manly and masterly one, as it was bound to be with such men for leaders, supported as they were by the able and popular men of their respective parties. Cobb, who had encountered the opposition of Johnson while a Union candidate for governor, now espoused his cause as a Democratic candidate, and that of the party candidates for Congress and the Legislature. Mr. Stephens and Mr. Toombs gave to Jenkins a support intensified by cordial agreement in principles and in aims, and a lifelong friendship for the man himself. The speakers and the press aligned themselves with the respective parties in all the ardor and zeal of ancient friendship and hatred.

Herschel V. Johnson, three years senior to Howell Cobb, then approaching forty-one years of age, was then nominated judge of the Ocmulgee circuit, though he never had been extensively engaged in the law practice preparatory to judicial duties. He had been a close and severe student, and from youth an ardent Democrat; and by his probity and virtue, his freedom from all that could arm an adversary with charges to assail his private character, and by his fearless and masterly eloquence in the debates of his party, like Toombs, Stephens and Cobb had leaped to the very front in early life. He had been made prominent for the office in 1845 when he was thirty-three years old and yielded voluntarily to Mathew Hall McAlister of

Savannah, who was defeated in the election by the Whig candidate, then governor, George W. Crawford. Again, 1847, he withdrew in favor of George W. Towns, who while in office appointed him United States senator, to fill the seat made vacant by the resignation of Mr. Colquitt, where he soon achieved a brilliant reputation as orator and debater.

Johnson, to be known and appreciated, must be well known. We do not, in our approach to him, reach the warm strata and temperature of his heart and soul until we get close to him. Admiring his intellect, his solid judgment and honesty, enthused by his wonderful powers as a popular speaker, we do not feel invited, as by the air and manner of many of our public men, to come up and be a close, warm-hearted and confiding friend. This cause was felt strongly in his relations with the men of his own party. He has been conscious that they could not assail his private or public character or deny his great merit and valuable public services; that he was perhaps standing in the way of many aspirants, hence did not have as cordial support for himself as he has uniformly rendered to others.

But a man endowed as he was by nature, cultivated by study and learning, trained by many hard fought contests with the political foe, who is in sympathy with the Democratic masses, as he has ever been, needs no help from party leaders where he can be seen and heard. He never made the mistake of underrating his adversary. He had debated with all the Whig leaders; knew their powers; knew Jenkins to be a man of great ability and unassailable character. He assured me, at the hotel in Rome, when about going out to meet him the first time in debate after their respective nomination, that he feared

his power, and dreaded the momentous contact with so able and pure a man.

The crowd was large; and the speeches in full keeping with the intellectual giants who had met. Johnson was more in sympathy with the masses upon the issues discussed, the merits of the national Whig and Democratic parties. His style of enunciation was more exciting, and he had at least a partial triumph over his adversary, but such a triumph as wavered with the conflicting emotions of great masses of people, at that time not fully settled and determined in their final course.

Johnson had been a Southern Rights Democrat, and was denounced as what was known as "fire-eater," and that class of men had been defeated and had grown into disfavor; but before being a "fire-eater" he had been a life-long national Democrat, and was then struggling to restore the power of the national Democracy in the State. Jenkins, the candidate of the Whigs, had all this to confront, with all his prestige as a union man and restorer of peace between the sections as author of the Georgia platform. The interest in the canvass did not abate at the election, and the result was so close that all doubt and uncertainty were only dispelled by an official count.

The Democratic Legislature elected with Johnson had the election of a senator. The retiring Gov. Cobb and his defeated Democratic competitor, Charles J. McDonald, were again rivals in competition for the distinguishing honor, either of whom would have made an acceptable senator; either could have been easily nominated in the party caucus but for the candidacy of the other, and as easily elected on joint ballot.

The Southern Rights Democrats and the new allies, the Southern Rights Whigs, were willing to accept the

aid and powerful influence of Cobb in the exciting and doubtful contest to restore the party to power, but not to bestow the coveted honor of the senatorship upon him.

The caucus put forward McDonald as the candidate and Cobb retired, but all his friends in the Legislature did not vote for the nominee, and after protracted ballotings McDonald finally failed to get a majority vote. The result was a compromise of the alienated factions on Hon. Alfred Iverson as senator. Cobb went back temporarily into private life, and at the next election in 1855 went back to the House from his district. McDonald has been placed on the supreme court bench, for which his native capacities and large experience and learning eminently qualify him.

The country, however, was not to remain at rest. The disengaged elements of the Whig party with the co-operation of disaffected and dissatisfied Democrats organized a new party combining most of the tenets of the Whig party and based upon opposition to the right of foreign born citizens and members of the Catholic church to hold office. The fatal experiment was tried of a popular party organized to control the republican government of the Union and of the States in secret lodges, and concealing the identity of the membership from the public. It was first known and spoken of as the "Know Nothing" party, a cognomen assumed, and applied on account of the obligation of the members to "know nothing" when interrogated as to the membership, the organization, and movements of the party. This was a feature which when discovered and ventilated soon became more odious to the popular mind than the leaders and speakers were ever able to make Catholics and foreigners.

When new and untried it was popular and captivating

to men out of office and power. It promised reform of abuses and promotion to office, and bid fair to sweep the Democracy from their reign of authority. In this State it gained many Democrats but lost more largely of influential Whigs. Mr. Stephens opposed it and fought all its principles and aims with a zeal and power peculiar to himself. He was seconded by Mr. Toombs and many prominent old Whigs, who were for the time being called Anti-Know Nothings and Anti-Americans, as the new party when fully developed took the name of American party.

But in the canvass of 1856 the Anti-Know Nothing Whigs all took open ground as Democrats in the support of Mr. Buchanan for the presidency. Perhaps no canvass in the State has ever exceeded that of 1855 in point of masterly discussion before the people. Gov. Johnson then a candidate for re-election against Hon. Garnett Andrews of Wilkes county, the nominee of the American party, and Basil H. Overby, the candidate of the Temperance Reform and Prohibition party, spoke all over the State. He was in full health and in the zenith of his oratorical glory. Cobb, who was a candidate in his own district where his election was assured, canvassed other parts of the State with the most withering orations to large mass meetings. Toombs brought all his powers to bear to enlighten the public mind and beat down the new party. They were aided by many able speakers of both the old parties of less distinction.

The old Whig leaders having refused to bear the standard and colors of the new American, and having joined their ancient foes in the warfare upon the new bantling, were treated with strong resentment by their old party friends, who called out the remaining leaders, and fol-

lowed them with great enthusiasm. Andrews, their candidate, like McDonald, was not a popular orator, and such was the case with several of their candidates for Congress. Hence the services of those who could speak were in great demand. Dr. H. V. M. Miller, "Demosthenes of the mountains," exceeded if possible the past brilliancy and eloquence that had given him the distinguishing title in his orations to large assemblages of the people. Benjamin H. Hill was a candidate for Congress, and, though defeated by Judge Warner, added to the brilliant reputation he had as lawyer that of one of the most powerful popular orators in the State. The admiration of his party men for him arose almost to idolatry.

When the national canvass of 1856, which resulted in the election of Mr. Buchanan, as president, came on, the Democrats had defeated the Whigs and Americans in turn, and were in full power in the State, having a majority of the votes of the State in the ranks and a majority of the popular old Whig leaders. They have had an easy victory so far as relates to the vote of Georgia, though a hard struggle in other parts of the Union. Mr. Buchanan goes into power with the highest prospects of a popular administration.

In these elections of 1855 and 1856 the Democratic party opposed the proscriptive ideas of the Know Nothing or American party based on religious opinion and place of birth. The party was also in accord with the settlement by Congress of the subject of slavery in the Territorial government, as had been provided in the acts organizing Kansas and Nebraska territories, and enabling the people to form State governments repealing restrictions and leaving them to establish, protect, tolerate, or refuse and reject the institution of slavery without hindrance or

intervention by Congress or the Executive Government of the United States. The old issues of the Whig and Democratic parties had nearly all received a historic solution; and on these new ones the Whig leaders referred to could freely harmonize with the Democrats. Their own National party had drifted nearer and nearer the whirlpool of abolition; and they could have no alliance with it consistent with their views of constitutional relations between the States and sections of the Union and fidelity to the slaveholding South. Hence their affiliation with National Democracy was patriotic and cordial.

The four men under review, all perhaps nearly equal in many respects, are essentially different in others, and each in some particulars is greater than all the rest. Like the Dougherty, Lumpkin, Hansell, Warren, and Hill brothers, and Hugh Haralson, Mark A. Cooper, David J. Bailey, and many others, three of these are men of fine physical proportions and form, and will in this respect compare favorably with Webster, Hunter, and Breckenridge; Toombs is physically the most faultless, and has only to be seen in any presence to attract attention and admiration; Johnson is scarcely less perfect; Cobb lacks height to make him the equal of either, and is more in physical mould like Silas Wright, and Thomas H. Benton. Stephens is the opposite to them all in every part of his physical frame, and is as rare for his physical frailty as Toombs for physical perfection; their confidence in each other and love borders on that of parental ardor in disinterestedness.

Stephens is encumbered by his pride of consistency; Toombs wears his as a loose summer gown, defies public opinion and criticism, despises his foes, and defies his friends if they differ from him, never dodges a bolt aimed

at him for want of consistency, but goes direct in search of the truth of the matter as now seen and understood, and prides as much in confuting his own former errors as those of other men.

Stephens is formal in his reasoning processes, parliamentary in modes of procedure, and courteous to his adversaries; lies in defiant manly coil like the rattlesnake, and lets all unintruding foes pass unharmed, but strikes with unerring aim and deadly fang whomsoever dares to assail him, his positions, or the party under his lead.

Toombs defies time, place, and circumstance, as does the storm when the winds are unchained. Stephens has method, art, consistency, as well as vigor and correctness of thought; Toombs has giant strength combined with electric quickness and brevity. Under his magic brain power figures are conceived, born, and achieve their talismanic effect upon admiring men in a moment of time.

All things considered, for pure intellectual power Toombs scarcely has a peer. And when they are combined with his wonderful power of utterance and daring courage they would make a powerful rival in any popular government. From early life they gave him prominence in the House, and now give him rank among the ablest men of the Senate.

Stephens, with his bodily frailty and weakness and his brain power, possesses faculties of person of the rarest bestowed on men. His voice is that of a woman in tone but of a man in extent before he is aroused. Then his pale features and emaciated frame without muscles invite sympathy and dread of physical collapse and failure, from strangers who have not heard him and witnessed his triumphs. The eye, that lies in somewhat melancholy radiance when at rest, like his placid and confident mind,

begins with his increase of strength and warmth of body to glow with unearthly brilliancy. He gathers physical power as the surging of the awakening brain heaves against its barriers, and all the muscular, the fibrous, and nervous man rises from the ghost-like to the God-like. The voice glides from the combined tone of the flute and nightingale to the volume of a speaking angel of light and intelligence. His audience passes under the magic power of eloquence, and there he holds them at his will. The men who heard him on the hustings from 1843 to 1856, who survive and see this florid picture, will pronounce it not overdrawn. But he enthused his own and enraged the opposing party. His friends loved and worshipped. His enemies admired his masterly powers, dreaded his fearful assaults, and hated his party for having such a formidable and tormenting leader.

But many of the grandest flights of eloquence I have witnessed and felt were by Herschel V. Johnson. He possesses physical manhood, grandeur, and beauty like Toombs when aroused, and like Stephens his voice gains compass, power, and melody as he ascends on the wings of unchained fancy, and sways alike the judgment and emotions of men. His logic is not stronger, but not so brief as that of Toombs; both like Stephens are masters of invective. Stephens and Toombs have anecdote; Johnson and Cobb, like Douglas and Calhoun and Andrew Johnson, deal in earnest, persistent argument and reason that go direct to the mind, the heart, and sentiments of men. But Johnson's severity often drives his enemies into closer alliance against him.

Cobb either has no such power, or, from superior wisdom and more human kindness in his heart, never commits such mistakes for the cause and the party of which he

is champion. Those who hear him, no matter whether of his or the opposing party, listen to him with or without their consent. They are chained by the presence of a great masterly mind and powerful person charged with the commission of pleading the cause of a common country and a brotherhood of people, and guided by the promptings of sincerity and the love of truth, but with less music and power of voice, and grace of motion than some of the others; a man who always rises above the tricks of the demagogue and the falsehood of the unscrupulous panderer to popular ignorance and prejudice. While he treats his own cause with masterly power and unwavering fidelity, he treats his foe fairly. And this makes him perhaps the most effective and successful popular speaker of the four. While many may honestly differ from this judgment, none who are candid will deny his great power over the people through his wonderful gifts as a popular speaker.

CANVASS OF 1857.

Since the chapter on "Contemporaries" was written, the parties have passed through a singularly organized and exciting canvass for the office of governor, and by opposite causes brought out two young men as candidates. The Whigs having been defeated in 1852, and again in 1853, the party having been absorbed in this State by the new American party in 1855, and suffered defeat under that organization, had lost the more powerful and prominent party leaders in 1856, and hence was a hopeless minority at the time of the election of Prest. Buchanan. The result was, the remaining old and prominent men of the party seemed not to desire a hopeless candidacy; but the party, composed as it was of a large minority, and of a

large volume of public intelligence, virtue, and patriotism, was not willing to abandon the organization, and yield to the dominant Democratic party without a manly struggle to regain power.

Their convention summoned to the lead and placed the banner in the hands of the zealous, gifted and eloquent Benjamin H. Hill.

The Democratic party being in the ascendancy, and having a redundancy of men among the old leaders who coveted the honor of being Governor, was greatly troubled in convention to unite on any one of the aspiring candidates for a nomination, James Gardner, Henry G. Lamar, Wm. H. Stiles, Hiram Warner, and John Henry Lumpkin, and a number of outstanding men, ready to accept a candidacy, under the usage of compromising disputes among prominent men by the nomination of a man not known as a candidate.

James Gardner was heralded by a long and brilliant reputation as editor of *The Constitutionalist* newspaper at Augusta, and had contributed largely for many years to the Democratic victories of the State by his power as a political writer; had come in possession of fortune, and desired the honor of retiring under the *eclat* of a nomination by his party, for the highest office in the gift of the State. He was seconded and supported actively and unanimously, by the Democratic leaders in that part of the State.

Henry G. Lamar is a man of ripe age, fair abilities, sterling integrity, high sense of personal honor, eminently patriotic, and sound in the Democratic faith, and true to the South, and the recipient of a powerful family influence as well as that of his life-long personal friendships among the public men in his part of the State.

Hiram Warner came from the North in early youth, identified himself with the State, and has been a steady and reliable Democrat from that time to the present. In early life he served with distinction in the Legislature, and later he served as judge of his circuit, three terms, and a term of eight years as judge of the supreme court, in addition to his long and successful career when out of office as a lawyer in western Georgia. He also served, with great ability as representative in the last Congress. And at different periods of life has been recommended for this office. His character for ability, fidelity, conservatism, and personal honesty gave him many strong friends and supporters for this nomination.

William H. Stiles had been a member of Congress on the general Democratic ticket before the State was laid off into congressional districts; a minister to Austria four years, under President Polk, residing at Vienna, and is a man of erect form, pleasing person, courtly style, and polished manner of popular oratory; a true and chivalrous representative of southern Democracy, supported by the elegant and refined people of Savannah.

John Henry, nephew to Wilson and Joseph Henry Lumpkin, son of an honest primitive Baptist preacher, George Lumpkin, came to Cherokee, Georgia, from Oglethorpe County, when young. Has been solicitor and judge of his circuit, and several times member of Congress, and has long been a Democratic leader of great personal cleverness and popularity in this part of the State. And in this contest for a nomination to the office, which, above all others, he has long coveted, he was the choice of this part of the State, with many warm supporters in other sections.

While any one of them would have been an acceptable

man to the people, the antagonisms between their friends in the convention were so strong as to prevent the nomination of either, and as a sequence to defeat them all. It resulted after a long session, and repeated fruitless ballotings, in throwing all overboard, and nominating by acclamation, upon the recommendation of a special select committee, the present Governor of Georgia,

JOSEPH EMERSON BROWN,

of whom my purpose to prosecute the history of the State will impose the most pleasant duty to write more at large.

The friends and adherents of the defeated candidates, notwithstanding the evidences of discontent that at first gave encouragement to the opposition party under Mr. Hill, in the course of the canvass gradually yielded to Mr. Brown their cordial and united support, and the party of Mr. Hill, the Whig, American, or opposition party as it is called, voted for him as enthusiastically even in the face of admitted numerical strength in the Democratic ranks.

The canvass was a heavy one for the candidates, and was conducted with great zeal and ability. Hill with incisive tactics, his stirring and impressive eloquence, appealed to the prejudices and the solidifying sentiments of his own party with a resume of its contests and achievements, and to the supposed disaffecting elements of the Democracy; arraigned the party which had been in power in the Union and in the State upon the current newspaper charges of maladministration and abuse of power and discretion. The administration of the Western & Atlantic railroad was reviewed with terrible scathing, because it was alleged that it had been used for party purposes and to promote favorites to the waste of public finances and the injury of the State.

Brown with his perseverance, calmness, composure, and confidence as well as moral and physical courage, in his convincing reason and powerful argumentation addressed the assembled masses in every part of the State, and triumphantly defended the party who had committed the banner to his hand to lead.

He defended the party with which he had been identified from his childhood, and whose principles were derived from and based upon the constitution itself—the party of a proud American ancestry, the projectors of Constitutional Liberty and the founders of Republican Government and makers of the Constitution itself—a party whose administrations had been the chief source of prosperity and development of a great country—the nursery and school of statesmen, and the champion of political justice and equality, and whose history was that of unrivalled progress and development, and under whose rule the United States had been the admiration of the world abroad, and had drawn contributions of people, of arts, science, and learning as well as of wealth, from all parts of the globe. A party whose triumphs were not of force or violence, but results of reason and intelligence, the force and effect of the love of truth and justice, and enlightened public opinion.

His nomination was the defeat of the people's favorites in the different parts of the State where he was, as well as being a young man for so high a position, a personal stranger to the masses of the people. That the ardent friends of all the defeated aspirants should, before the election, yield in his favor, and join in full accord and give him a cordial and enthusiastic support, based on the sanction and conviction that he was the strongest as well as most suitable man of them all, is one of the features of

the politics of this State which can only be explained on the hypothesis that in the newly elected and installed, and comparatively youthful, Governor the people have discovered a man of destiny.

CHAPTER II.

GOVERNOR JOSEPH E. BROWN'S EARLY LIFE.

His rapid rise from the walks of humble private life, obstructed by the disabilities of poverty, and the want of early scholastic advantages which many of his contemporaries enjoyed, propelled by the self-sustaining energy of a naturally great mind to the highest honor in the gift of the State at the age of thirty-six years, invests his personal history with an interest to the people of this and future generations, and with a priceless value to mankind. Many men in this State have risen rapidly, and come to high official honors in early middle life. But they were propelled by early advantages and propitious surroundings, and were obstructed by far less competition in other able and popular men.

Cobb rose as rapidly, and began earlier in life to receive public honors than Brown. But he grew up in the heart of the State, enjoyed the training of her masters of learning in Franklin College at Athens, came up in the very centre of political power and influence, and was heralded by powerful family prestige, and sustained by worldly fortune. Brown comes from the mountain district, the remote interior of the State, far from railroads and telegraphs, and schools of learning, and the boasted intellectual centres, and as far from political cabals and juntos. His fortunes have not been speeded or his morals diluted by the improvements of metropolitan life and society, nor does he share too largely the sympathy of the older

men supplanted or postponed by his promotion and elevation. He enters on his high office with but few political props to uphold, and fewer dead weights to pull him down.

He is a comparatively frail man in body; may die young. Hence this note of his physique. He is five feet ten inches in height, and weighs about one hundred and thirty-five pounds; he will not compare with Toombs and Johnson in splendor of personal outline, or with Mark A. Cooper, and John C. Breckenridge, in stately and imposing height and form, and strength of body; and still he is further removed from the pattern of Alexander H. Stephens.

His complexion is fair, though slightly swarthy, or wanting in the ruddy, fresh glow of the young men of active life, physical strength, and health. The hair and beard are black, the latter of reasonable luxuriance, and the former indicating a slight want of richness and depth of soil. The head is unusually large, and seems to balance well on the vertebral column; the brow expansive and indicating in its conformation a native powerful mental organization with uncommon perceptive and reasoning faculties; the brain within seems never to tire, but is capable of powerful and prolonged exertion; the features are full and regular, with a cheek, chin, and nose in proportion with the high and well-rounded forehead; large square mouth and thick lips; eyes of deep, dark blue when in repose, and radiant under mental effort and excitement; his chest is too thin for great strength of lungs; he is not fitted for loud and boisterous declamation; his throat is weak, and subject to irritation and disorder; his voice is loud and smooth in tone, distinct and clear in pronunciation, which can be well understood to the extent of the voice itself. But it cannot be extended like that of Hill, Johnson, and Stephens.

Hence he is never very loud or vehement, even in the most important speeches, but is always self-possessed, self-reliant, confident, and deliberate. He is earnest and emphatic in conversation, but never boisterous or noisy, and never emphasizes his ideas with oaths or expletive adjectives. Never deals in fiction or fancy in conveying his thoughts to his hearers, but uses facts and reason, and the most exhaustive argumentation, in the plainest, and most approved English words. With the air of slow and stately dignity, he has no military dash in his walk and physical motions. Nothing of the swell of the nabob, or dainty toilet of the fop; and nothing of the coarse, careless, and ruffian manner of the hoosier. Genteel, but not showy; neat, but not gaudy, is his style of dress and address.

But few, perhaps, will be able, by following his example in pursuit of public honors, to approximate his brilliant success. But there are points to be noted in his personal habits, that all the world may profit by following. He abstains habitually and totally from all intoxicating drinks, and loathes and rejects tobacco in all its forms and uses. And in my intimate and cordial friendly relations with him in private life, I have never heard him use a profane oath, or relate an obscene or vulgar anecdote.

In religion he is also a decided character, and is as firm and pronounced a Baptist in church relations, as he is a Democrat in politics. It is, however, a noteworthy feature of the religion of the churches, and the politics of this State, that they never mix much with each other.

The politicians on their canvasses are not over-zealous in religion; and the men of the church in turn forget or disregard its fellowship when they come to vote in party

elections. The Christians of the period love the cause of religion and adhere strongly to their respective churches when in the prosperous or revival state, and for all the legitimate and scriptural purposes of their professions; but when the tide of politics arises they naturally drift, every man with his own party.

Brown is a steady and consistent Baptist—the line of distinction is as clear between Baptists and Methodists for all religious purposes, as between Democrats and Whigs for political purposes. The members of opposing churches respect each other as Christian professors, and those of opposing parties respect each other as citizens of a common government, while they stand aloof and act in their separate organizations. Hill is a decided Methodist, but was enthusiastically supported by all good Baptist whigs, as Brown was by all good Methodist democrats. It is, moreover, a very marked characteristic with both parties, and exemplified by the public officers of both, whether political, judicial, or ministerial, that in the discharge of official duty they are sternly impartial between all the religious denominations.

1879.

After the eventful period of twenty-two years—when the then youthful statesman has grown gray, and his career has been crowned with the most eminent success—in public administration, so far as it was in the power of the largest measure of abilities and the most sleepless energy and perseverance to save the State from disaster, and in the management of his own private fortune, as well as the public enterprises in which his business capabilities have been employed, his life becomes invested with an interest and value to mankind whenever and

wherever genius and talent struggle with privations and difficulties, and when masterly abilities and moral courage attempt to confront and repress wrong and correct abuses ; and where sagacity and forecast, almost prophetic, by bold and daring originality, seek to wield the powers of government in the interest and general improvement and advantage of the people, instead of burdening them for selfish and ambitious purposes.

Even the childhood and youth of a man whose grand thoughts resulted in original plans for the general good, but many of which were thwarted or retarded by destructive war, to be utilized and adopted by his successors, have an example so moral and sublime as to claim the minute attention of aspiring young men in all countries.

His paternal ancestors were Scotch-Irish, his immediate ancestor the descendant of emigrants, of honorable descent, to Virginia upwards of a century ago. Like Crawford, Forsyth, and many others who have adorned the State in high positions, the ancestry was Virginian. The grandfather, Joseph Brown, was a whig rebel, and took active part in the war for independence. The father, Mackey Brown, was a native of South Carolina, to which State the ancestors had removed. In early life he removed and became a citizen of Tennessee where he joined the army in the brigade of General Carroll and served under General Jackson in the campaign of New Orleans. There was a consequent family admiration of Jackson as a hero and statesman.

His mother's maiden name was Sally Rice, who was also of Virginian ancestry. The Rice family having before emigrated to Tennessee, Mackey Brown and Sally Rice were married and resided in that State until a short time before the birth of Joseph Emerson, which took

place on the 15th day of April, 1821, in Pickens district, South Carolina, whither the parents had removed. During his boyhood they removed to and settled in Union county, which is in north-eastern Georgia. It was in that remote mountain home, under the control of and in dutiful and affectionate obedience to steady religious Baptist parents, that he passed his early youth. He labored in the field and attended stock to aid in the family support until he was nineteen years of age. He had been sent to the country schools, had learned to read and write, and had acquired some knowledge of arithmetic and the elementary branches of ordinary education.

It was only a spark of knowledge that struck the tinder of a great brain in the formative state; but the ignition took place, and the flame, which no adverse fortune nor accumulation of discouraging circumstances could extinguish, began to burn and brighten and to irradiate its light and heat. The world has witnessed the rapid rise and brilliant career of the mountain boy in the proudest position in the gift of a great and appreciative people.

The labored steps of genius without fortune by which he began to climb the rugged hill to fame and power, though humble in themselves, are sublime in moral grandeur, and are heralds of hope and encouragement to mind with energy and perseverance in all lands and all ages to come.

He heard of Calhoun Academy in Anderson district, South Carolina, under Wesley Leverett, a distinguished teacher, and seeing the light as its rays came from the east, he planned the grand enterprise of reaching and passing a year in that school. He had no exchequer, never had revelled on cash, the gift of parental bounty, or from any source whatever; never had clothing except the

common but neat domestic manufacture, had no horse of his own to ride over the long mountain road to Anderson, had no money to pay for board and tuition after he should reach the place. His worldly estate consisted of a yoke of steers.

He set out with the oxen with his younger brother James, now an eminent lawyer at Canton, to ride alternately his father's plow-horse and drive the steers, and to carry back the horse after the main part of the journey was completed—a distance of about one hundred and thirty miles.

He sold his steers after arrival for eight months' board, entered the school and went in debt for tuition. There was no danger in trusting him then, and there has never been since.

His earnest manner gained him credit, his energy and enterprise enabled him to meet its demands promptly. At the end of his board-contract he returned to Union County, Georgia, and taught a three months' school, with the proceeds of which he paid his tuition-debt and had some money left to apply to the expenses of another term.

He returned to Carolina and spent two years of close hard study, on credit mainly for board and tuition, in the course of which he made such advances in the languages and mathematics as to have been prepared if he had possessed the means to pay the expense to enter an advanced college class. He returned to Georgia, went to Canton, the county seat of Cherokee County, and took charge of the town academy as teacher in January, 1844, in debt for two years preceding board and tuition, with six scholars which soon increased to sixty; while teaching this school he read law of nights and Saturdays without an instructor;

and at the end of the year he returned and paid off his South Carolina debt.

In 1845 he pursued the study of law with a view to its practice, and at the same time earned his board by teaching the children of Dr. John W. Lewis. In August of that year, after a critical public examination which he sustained with unsurpassed promptness and correctness, he was admitted to practise in the courts.

Dr. Lewis, who had observed the immense promise of young Brown, and comprehended the extraordinary mind with which nature had endowed him, and the sleepless energy with which he was pressing it to development and practical use, loaned him the money to pay the expense and attend the law school at Yale College, where he entered in October, 1845. Having the advantage of a previous course of thorough and severe study of law he was enabled to keep up with his law classes, and also found time to take a liberal literary course. Having graduated in 1846 he returned to Canton and entered into practice which soon became extensive and lucrative.

Eleven years later as the victorious leader of the great Democratic party of Georgia he was installed into the office of chief magistracy with the honors that crowned a success brought about by native and cultivated ability and reached without cause of reproach.

In 1847 he married Elizabeth, daughter of Rev. Joseph Grisham, a Baptist clergyman of South Carolina, who has been among the most devoted of wives as she is one of the noblest and best of women ; she has been constantly by his side in all his arduous duties with aid in toil and wise counsel in times of trial and embarrassment, constant and devoted in affection and so just and generous, so noble and self-sacrificing, as well as self-possessed and

prudent, even under strong provocation in ill-natured public criticism, as to have held and maintained the universal esteem and high respect of all parties, the foes as well as the friends of her distinguished, often assailed and much abused husband.

It is difficult for even a great man to continue to act wisely without a true and devoted wife to aid him in counsel and share his cares and toils. Such has been the good fortune of Gov. Brown from early manhood to the present.

They have been blessed in their offspring as well as domestic worldly success and prosperity. Julius L. Brown, the elder son, a graduate of the State University of Georgia and Cambridge Law school, has become prominent in the legal profession; Joseph M. Brown who inherited much of the father's intellect, educated for the same profession, but on account of premonitions of physical weakness has changed his purposes and become a railroad man; Elijah A. and Charles M. Brown* are inclined to the noble calling of agriculture; George M. the youngest child is yet a school boy; Mary V. is the wife of Dr. E. L. Connally of Atlanta, and Sallie is not yet grown.

But all has not been continued bliss in this happy household. There was an idol taken away, where memory still lingers, in all the freshness it had, when the handmaid and the herald of parental and paternal grief—grief that bowed low the strong head of the father, and embalmed the true mother's heart. Bright in childhood, as the diamond, newly cut from the imbedded secrecy of the untold past ages and centuries, were his mind and soul, encased as they were, in a casket made frail by early and incurable spinal disease; and by the continued ravages of which it was prevented from growth, develop-

* Since this was written Charles M. Brown has died, as hereafter stated.

ment, and vigor, endowed as he was with genius, whose rays sparkled, during his brief life, through the sombre clouds of pain and unrest, he passed like a meteor from out of sight of men.

This was Franklin Pierce Brown, whose mortal remains repose beneath a towering, beautifully surmounted, and ornamented monument of Carrara marble, executed in Italy, in the Oakland cemetery at Atlanta, where he was laid in 1871, at the age of eighteen years. A child almost in frame, he was a pre-conscious, self-educated man in mind, in heart, and in all the attributes that endeared him to his kindred, and to his own and his parents' friends. His private library, as he read and mastered the books, enlarged with the growth of his mind, the expansion of his judgment, and cultivation of his affections and taste, and at his early death, it embraced one hundred volumes. The inscription on his monument is from a voluntary tribute to his memory, from Alexander H. Stephens: "Such a prodigy of intellect and virtue, in a body so frail, I never met, in any other human form, and never expect to if I live a thousand years."

There are, perhaps, but few, if any, of the wives of public men of this age who can be compared with Mrs. Brown as to the traits of mind, and heart, and the disposition and habits which render a wife, in truth and reality, a helpmate to her husband, and which rendered her the equal of her husband in many respects.

Instead of wasting his estate by extravagance and useless display, she has been a model of household and domestic economy. Instead of leading an idle life, devoted to pleasure and gayety, as most women do, whose husbands have distinguished them, she has been devoted to toil and industry, and has scarcely been the inferior of her hus-

band in the wonderful power he possesses of endurance of protracted mental and physical labor and exertion.

It should be recorded to encourage the wives of all public men, that Mrs. Brown, in addition to the care of her children and household duties, with her own hand, copied for the printer the original manuscripts, difficult for most people to read, of all the messages and public documents of the Governor while in office. And in like manner all his discussions and opinions, as chief justice of the supreme court of Georgia; and in addition, with the aid of the lamented and life-long afflicted son, Franklin Pierce Brown, kept a complete file in scrap-books of the public criticisms and comments and commendations on the Governor, and most of the public documents from his early life to the present; which, since the destruction of public records and files by the Federal cavalry at Milledgeville, have greatly facilitated the writer in this work.

The student of biography may be curious to know by what kind of ladder he ascended from such lowly beginnings to so high a station and rank, and with such extraordinary rapidity. The answer to the inquiry is, a ladder he built as he ascended. It was based on the solid foundation of brain, backbone, and heart; mind, heroic endurance and irrepressible perseverance and energy, and honest purpose. The warmth of his patriotism, and sympathy with the masses of the people of all classes, and his fearless advocacy of the right, melted and moulded the material of its rounds, in rapid succession, by which he reached the height, and stood firmly planted on the foundation of self-sustaining ability and wisdom.

He was accustomed to attend courts, give unremitting attention to, and takes notes of all the proceedings on, legal questions. If he was counsel, he went in pre-

pared on facts and law ; if he was not counsel, in the case on trial, he was a laborious student of law in its application to the affairs of men, and therefore deeply interested in every cause that came to be tried by the courts. He had neither disposition nor time to loiter and dissipate, or associate with the idle and vicious.

His first election to public office was in 1849, when nominated by the Democrats of the forty-first senatorial district, composed of Cobb and Cherokee counties ; when, after encountering strong popular opposition on account of his temperance opinions and practices, and his stubborn and persistent refusal to carry his election by buying whiskey and treating voters, he was elected by a large majority, and entered the senate under the administration of George W. Towns, amid a splendid array of legislative talent and worth. Towns had been re-elected over Hon. E. Y. Hill by a doubtful struggle, and the parties were closely matched, and nearly equally divided in the legislature. In the Senate, were Andrew J. Miller, Blount C. Ferrell, Peter E. Love, Allen E. Cochran, William W. Clayton, Thomas Purse, Richard H. Clark, William B. Wofford, John D. Stell, David J. Bailey, Charles Murphy, Edward D. Chisolm, James M. Spurlock. In the House were Linton Stephens, Lucius J. Gartrell, Edmund H. Worrell, William T. Wofford, John A. Jones, A. T. McIntyre, Charles J. Jenkins, Alexander McDugald, Robert P. Trippe, Randolph Spaulding, James N. Ramsey, Thomas C. Howard, John W. Anderson, George P. Harrison, A. D. Shackelford, A. H. Kenan, Winslow J. Lawton. There were others of merit in both Houses.

The State being in the rapid stage of development, her Legislature was a body of the first significance and importance ; and summoned the best men of the respec-

tive parties. The questions before this body were well calculated to draw out and utilize the wisdom of the elder, and develop the capacities of the younger members of the Houses, the men of mark and merit. It is a truth, however, that a large majority of this, as other preceding Legislatures, was of men not constituted by natural endowments or acquired abilities for the high and responsible duties of legislators. Young Brown was placed on three important standing committees of the Senate; among them the committee on the judiciary.

The questions of revenue, finance, and taxation, were prominent, and summoned the highest talent of both parties. There was a public debt of upwards of \$1,800,000, which had been created in great part by the losses and the complications of the State through the State Central Bank, and the construction of the Western & Atlantic Railroad.

The theory of equalizing the burdens of government that were increasing with its enterprises, and consequent expenses, by the equitable system of *ad valorem* taxation, had been favored by Gov. Crawford. So far as relates to real estate, it was more strongly and forcibly urged by Gov. Towns, on the general theory of placing all taxable property on the basis of paying taxes to support government according to value. The idea that the owner of a slave-child, or invalid, or of small value, should pay as much tax, on that slave, as the owner of a slave of large value, and a like theory as to other property, and assets, tended to bring the system of "specific taxes," into disfavor, and to inaugurate that of taxing values instead of specified property.

The Western & Atlantic railroad, the first enterprise of the kind by any Southern State, was being completed.

The subject of a suitable organization and system of laws for its government and management, so as to make it available as a great channel of inland transportation, and the development of the country, as was originally intended, and a source of revenue to the State after paying the debts contracted for construction, and at the same time guard against the corrupting influences of so large a money collecting and disbursing institution, was one of momentous importance.

The administration and government, and financial affairs of the State penitentiary ; the asylums of the lunatics, and deaf and dumb ; the public land system ; the disputed boundary with Florida ; the militia laws, and means of the protection of the State ; the purity of elections ; salaries of public officers ; the supreme court ; education, and the threatening relations of the people of the North toward the South on the slavery question, were under severe and critical review in this Legislature, and all afforded ample field for the intellectual powers of Mr. Brown and his able contemporaries of the Senate and House.

Gov. Towns, who was of the class called "hot spurs," and afterward "fire-eaters," brought the subject of federal relations before the Assembly, stating in strong terms his views of the dangers to the South growing out of anti-slavery aggressions by the Northern people. It was in this Legislature that the measure was adopted which divided the Democratic and Whlg parties up to 1852. The call of a convention of the State to consider her course on account of the alleged fraudulent organization of the Territory of California into a State government, with a constitution prohibiting slavery, and the admission of the State into the Union by Congress : the

debates on this question and matters germane to it had the effect to develop different and conflicting opinions between Democrats and between Whigs in reference to the preservation of the Federal Union ; and the integrity of the States and the protection to the constitutional rights of the South in the peculiar institution of slavery. They differed as to the value and importance of the Union, while all were Union men ; they differed also as to the extent of the aggressive spirit against slavery and the imminence of the danger, while they were all State Rights and Southern Rights men. The result was an explosion and disbanding of party organizations for the time being.

In these discussions, and those which followed before the people, Mr. Brown, while not a Disunionist or Secessionist, as many of the Southern Rights men were, was firmly and decidedly in favor of such a course as might tend to arrest aggression and preserve the Union and Constitution by providing safeguards, or enforcing those we had, for the rights of the States, and the honor and interest of the slaveholding people of the South.

But, as we have seen, the wing of Democracy with which he acted was largely in the minority when the people came to elect delegates to the convention, and in the subsequent election of Cobb over McDonald for governor, with a strong Union legislature which elected Mr. Toombs in the place of Mr. Berrien to the United States Senate. But, as we have seen, upon the settlement of the disputed issues the local and temporary parties organized on them were disbanded, the old Whig and Democratic parties re-organized, and the Southern Rights Democrats passed out from under the cloud of defeat and minority.

In the organization of the Democratic forces of the

State for the decisive canvass between the national Whigs and Democrats in the Union, and to determine the mooted and vexed question as to the ascendancy and power of the one or the other, under the lead of Winfield Scott and of Franklin Pierce, the prominence, ability, and influence of Brown caused him to be placed upon the Democratic electoral ticket for the 5th congressional district of the State, which after a successful canvass was carried for himself and the Pierce electors by an overwhelming and increased majority.

I have elsewhere alluded to his candidacy and election over Hon. David Irwin, the incumbent judge of the Blue Ridge circuit in 1855, and his brilliant and able administration for the two years ensuing, which position he held at the time the State Democratic convention nominated him for governor.

The wisdom of the State has fluctuated much upon the proper mode of appointing judges of the superior court. From time out of mind they had been elected by the General Assembly on joint ballot; but by Act of 1852, re-enacted in 1854, the State constitution was so changed as to give their election to the people. This contest between Brown and Irwin was a trial in that, as there was in other circuits of the new system, which in the course of a few years proved to be unsatisfactory on account of the repugnance of the people to bringing their candidate to electioneer personally for votes, and the supposed demoralizing tendency upon the judges when after a successful canvass they have to preside over friends and foes and to pass judgment upon the legal rights of those who supported, as well as those who voted against them. In many parts of the State it had the appearance of tending to evil.

The next change was to clothe the governor with the power to nominate, and the senate to confirm or reject—as in the case of appointing judges of the supreme court—which system was in force until 1877, when the constitutional convention of that year so altered the constitution as to return to the original system of electing by the Legislature, except that instead of a vote by ballot as formerly, the method is to vote *viva voce*.

The method last abandoned was intended to remove the appointment from all the corrupting influences of popular elections; but it was found to be a source of dissatisfaction because of the vast power it placed in the hands of the governor, and the impossibility of the appointment of any man, however well suited or however much desired by the people, who could not in some way procure a nomination by him.

CHAPTER III.

GOVERNMENT OF GEORGIA UNDER JOSEPH E. BROWN.

This embraces the period from his inauguration in November, 1857, up to the commencement of, and during the whole of the late war, to the final collapse of the confederacy, and to the suspension of civil authority in the State, and his arrest and confinement under the military authority of the United States in the year 1865, having been four times elected by the people of the State, and by large and increased popular majorities. In 1859 the opposition nominated the Hon. Warren Akin of Bartow county, who canvassed the State with great zeal and ability. But it was in the face of increased and solidified confidence of the people in and largely widened and intensified popularity of the incumbent ; and Mr. Akin, as would any other man of either party in the State, suffered defeat.

In 1861, after the war was fully opened on a large scale, they nominated the Hon. Eugenius A. Nesbit, a man of great ability, and purity, and of large personal popularity, who, like Brown, had thoroughly and heartily joined in the movement, and cast his lot with the fortunes of the new confederacy. But he, like Akin, suffered defeat by a very large majority.

In 1863, when the fatal crisis of the bloody struggle was being passed, and when the murmurings of discontent were beginning to be heard, and it was supposed that the somewhat silent voice, and unorganized senti-

ment of opposition to the war in its inception, and especially to its continuance, and the strong desire for an adjustment, and peace, would find expression at the ballot-box, the Hon. Joshua Hill was brought out as a candidate. He was an acknowledged Union man. An old Whig with strong party prejudices, and great personal integrity, decision, moral courage and firmness, who at the time of secession represented his district in Congress, and refusing to acknowledge the validity of the ordinance of secession, did not retire with the Georgia delegation from Congress, but formally resigned his seat, thus acknowledging the authority of the Federal government over a representative of Georgia in Congress. It being impracticable to defeat Brown by the popular vote, and with a view to securing the election to the General Assembly, a third candidate was brought out. There was a sentiment of opposition to Brown among men, as much opposed to Hill as he was, growing out of his opposition to the policy of Jefferson Davis, President of the Confederacy, which will claim particular attention in another part of this volume. This opposition put forward as a third candidate a man of fair ability, and great excellence and purity of private character, and a true patriot; the Hon. T. M. Furlow of Sumter county, a strong Secessionist. But both these able and popular men, like Benjamin H. Hill, Warren Akin, and Judge Nesbit, were doomed to overwhelming defeat, by a majority required by the State constitution over both competitors. It is a marked feature in this election, that the Georgia troops in the army, by act of the Legislature, held elections in their camps and voted, in the face of, and defiance to, the complaints of the confederate administration and authorities against the course Brown had pursued, in maintaining, even in war, the constitu-

tion of the Confederacy, and the rights of the soldiers, as well as people. The soldiers of this State voted for Brown by large majorities.

The history of Georgia in this period is, to a large extent, a continuation of the history of her Governor, which naturally divides itself into the civil and military administrations.

CIVIL ADMINISTRATION OF GOV. BROWN.

Entering upon the duties of his office when really a young man for the position, and when he was regarded and classed among the young men of the State, as the successor of a line of able and distinguished men, such as Lumpkin, Schley, Gilmer, McDonald, Crawford, Towns, Cobb, and Herschel V. Johnson, the anxiety and solicitude with his own party and his special friends as to his experience and knowledge and ability to sustain the reputation of the State and administer the government were only equalled by the expectation of short-comings and failure on the part of his defeated political foes. It was difficult for the intelligent public to conceive that a man from the remote interior without the benefits of long association with central political juntas and rings, and without experience in civil administrations and a comparative personal stranger to a large portion of the people, could enter upon such an office without meeting many difficulties to obstruct his success. It was not in their process of reasoning upon the probabilities of his success that a man in the interior, endowed as he was by the very largest measure of brain power and unparalleled energy, perseverance, and moral courage, could become learned from the same authors studied in the central towns; that he had the same universe spread out before him in which to

study nature, and people of the same race to live among and study human passion and frailty ; and that there was more leisure and fewer obstructions in the way of just and correct conclusions, and more influences to fix his principles and habits in accordance with the demands of integrity and fidelity in private intercourse and in public administration.

Hence the true character of Joseph E. Brown was not well understood, or the full measure of his administrative capacity well comprehended by any considerable number of even his own party in the State. Many good men were inclined to think the party had succeeded with a man who had to be aided and instructed in his duties, and were not prepared for the conclusion that he was himself bold, fearless, an irrepressible leader prepared to follow the dictates of his own superior judgment, and to lead not only the people, but his seniors in age, in the matters of sound, practical, successful, honest government.

Able men of the State in the Legislature and out felt they were his seniors in age, experience, and intellectual rank, that when he differed from the General Assembly, and sought to arrest hasty, inconsiderate, or unwise legislation by the exercise of the constitutional prerogative and duty of

THE VETO POWER,

he was dealing out his personal vanity, presumption, and ambition to the obstruction and hinderance of the legislative will emanating from the superior wisdom and prudence of the leaders thereof ; and that he failed to cultivate a proper consideration and deference for the opinions of that body.

Against the criticisms of the opposition which had already added to his strength and popularity with the peo-

ple in his second election, in the message of November, 1859, he thus vindicates his administration :—

“The numerous examples of hasty and inconsiderate legislation, which we so often witness, are becoming a source of great detriment to the State and should be discouraged by all prudent legislators. One of the great evils of the age is, that we legislate too much. As a general rule, the failure of a bill that has merit in it is less to be regretted than the passage of a bad law. Wholesome rules of law with which the people have become familiar should not be changed, unless for good cause after very mature deliberation. A failure on the part of the Legislature to observe this rule has involved our laws in much uncertainty, and has often kept the people in ignorance of their true meaning. Our legislators have frequently given too little attention to their duties during the earlier part of the session, and have left the greater part of the business of the session to be transacted within the last few days before adjournment. Hence, their inability to give to each important measure, brought before them at the close of the session, the attention and deliberation necessary to its proper disposition. The consequence has been, that we have had much inconsistent and unwise legislation. If we would learn wisdom by experience, we might do much to correct this evil in future. I feel it my duty to use all the influence and power of my position to that end. I shall not, therefore, hesitate to lay aside and withhold my sanction from all such bills passed in the hurry and confusion which usually precede an adjournment as fail to command the approbation of my judgment, together with all such as have not been plainly and correctly enrolled and signed by the proper officers.

“I would further suggest the propriety of dispensing with a great deal of the trivial, local, private, and class legislation which is introduced into almost every General Assembly, much of which is useless because it benefits no one, and much of it is unjust and mischievous, because it benefits a few individuals at the expense of the many. Let it be remembered, that each useless local Act introduced and passed cumber the Journals and the pamphlet of Acts, and that the State pays out of money raised from the people by taxation, for printing 4,000 copies of the Journals of each House and 5,000 copies of the Act itself, and that one day spent by the General Assembly in the passage of such Acts costs the State over \$2,500, in pay of members, officers, and other expenses. A proper and just regard for economy demands reformation in this particular. The same objections that are applicable to trivial and local legislation, apply to much of our private or individual and class legislation, with many other objections on account of its injustice and inequality. It would, in my opinion, be much better for the Legislature, with few exceptions, to lay down general rules of law, and let all alike regulate their conduct by them.

“Entertaining these views, I have, during my term in office, frequently

withheld my sanction from bills of the character above described. In so doing, I do not consider that I have been wanting in respect for the General Assembly. The Constitution has assigned to the Governor, as well as to the General Assembly, official powers and duties, and the people should hold him responsible for the independent exercise of his official powers, as well as the faithful discharge of his official duties. Neither House of the General Assembly feels that it is wanting in respect for the other when it refuses to pass a Bill which it does not approve, though it may have been passed by the other. The constitution declares that the governor 'shall have the revision of all Bills passed by both Houses before the same shall become laws;' and it only gives to the General Assembly power to pass laws, 'notwithstanding his dissent,' by two-thirds of both Houses.

"If the Governor, therefore, out of respect for the two Houses, signs a Bill which his judgment does not approve, he denies to the people the exercise of that executive revision, which, under the constitution they have a right to demand as a protection against hasty or unwise legislation."

CRIME AND PARDONING POWER.

At this period, the increase of crime had kept pace with the multiplied chances for escape of punishment on the part of those violating public law. With the increase of the class of men who disregard law, and pursue their own inclination, in defiance to its penalties, there had been a fearful relaxation on the part of judges, and an increase of men who serve on juries whose own life and conduct made them amenable to law, when rigidly administered, and who therefore had strong sympathy with persons under indictment for the like offences they were in the habit of committing. The laws against gambling encounter the opposition of all men fond of gambling, those regulating liquor traffic have not much support from men fond of tippling. Laws to protect virtue, and for the promotion of purity, between sexes, have all the chances of being evaded when libertines chance to be on the jury to try those who violate them. Men who rely upon deadly weapons, and cultivate the idea of punishing personal insults and offences by violence, are slow to punish

men whose conduct results from similar ideas and practices.

The increase of legal skill and tact in the defence of criminals; the disposition to use the pardoning-power by the Governor, and the General Assembly, tended to give assurance to lawless men against the ultimate penalties of criminal law, where there were social, pecuniary, or political advantages to be used in their behalf. As judge of the superior court for the two preceding years, he had seen the evil tendency of relaxation, and the want of firmness and nerve in the courts and juries. He had set his face as a judge against it, and while he incurred the hatred of criminals, and men committing misdemeanors, by preventing their escape from conviction, and imposing and executing the laws' penalties, he drew to him the confidence, esteem, and ardent support of the law and order loving people of all parties. And now that the executive office of the State was placed in his hands he had to confront the same spirit and fearful tendency, in a higher sense of responsibility, and in the face of far more formidable opposition. It was the influence of wealth and social power of political leaders whose opposition was to be dreaded in all future contests, and the attempt to make him odious before the people for the alleged want of proper feelings of humanity, clemency and mercy. It involved on him the decision between the policy of giving encouragement to criminals, and immunity to crime, through the tender emotions of forgiveness and mercy, as to temporal penalties on the one hand, and the protection of life, liberty, and property of the whole people by making punishment certain, according to the rules of law. It involved him in the refusal to turn convicted offenders loose by the indiscriminate or liberal use

of the pardoning power, and to sanction bills of the General Assembly, even when backed by powerful influences, whose object was to relieve properly and legally convicted criminals from the penalties of their crimes.

The first important bill of this kind passed in the first session of the Legislature was to commute the punishment of John Black under sentence of death for murder in Habersham county. In his veto message to this bill the Governor, after ably reviewing the case, and the law as to the constitutional power to commute by the Legislature after correction and sentence by the Court, foreshadowed his views and policy as follows:—

“While I am controlled in my action in this case by the Constitutional question, it may not be amiss to notice the question as one of public policy in connection with the question of Constitutional obligation. Should the right to commute the punishment be recognized and exercised in this case, it is not probable that there would ever be another case of capital punishment in Georgia; the most aggravated case of murder would probably be brought before the General Assembly. Eloquent and sympathetic appeals would be made to the passions and feelings of the Legislature. The result would probably be in every case a commutation of the punishment; and when the convict went to the Penitentiary, in a few years he might be pardoned out and let loose upon the community to shed more innocent blood. The clamor which is beginning to be raised for the pardon of every felon I can but regard as a false sympathy, tending to encourage the commission of crime by destroying in the minds of bad men the fear of certain punishment. In a deliberate case of wilful murder the best interest of the community requires that the culprit should suffer death. This is the revealed law of our Creator; He has said, ‘the murderer shall surely be put to death.’ Again, He has said, ‘moreover ye shall take no satisfaction for the life of a murderer, which is guilty of death, but he shall be surely put to death.’ ‘So ye shall not pollute the land wherein ye are; for blood it defileth the land; and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.’ That State or Nation, which is most faithful in its observance of God’s moral law, is always the most prosperous and happy. If we would save our land from the stain of innocent blood, we must execute the law and punish the guilty. While the pardoning power is a necessary one in every well regulated government, and while there are cases when it should be exercised, its indiscriminate exercise cannot fail to be attended

with the most ruinous consequences; when the murderer is turned loose upon the community, let it be remembered that the blood of the innocent, slain like the blood of Abel of old, cries to us from the ground."

The firm adherence to the settled opinion and policy of this message, in their application to the multitude of cases for pardon, drew down upon him the odium and the curses of criminals, their relatives and advocates, and strengthened the confidence of the law abiding people in their Governor, and tended to protect them against the crimes of lawless men by removing the hope of immunity from punishment when legally convicted.

The rule laid down in the case of Black was a hard one to adhere to, and subjected the Governor, in the course of his administration, to many severe tests of his firmness. Many are able to brave danger in the most terrific form, or to resist the influence of rewards when offered. But few men who are charged with individual responsibility in matters involving life or liberty have the stability to withstand the influence of sympathy aroused by the claims of early friendship, and the sacred and heart-subduing pleadings and appeals of a true and noble mother for her son under sentence of death. The case of William A. Choice, of Rome, put him to the test in both.

His mother, a woman of great worth and propriety, and of superior intelligence, had been proprietor of a hotel at Dahlonga, where Brown in his boyhood carried country produce to sell. Her great kindness to the poor country boy was fresh in his manhood memory. At this period she was the mother of elegant daughters, intermarried with prominent and influential men. The son himself, under sentence, was a man of brilliant mind, and of large personal popularity in his youth. The mother, as all true mothers would, visited the Governor

in person, in behalf of her only son. But he was firm, treating her with great tenderness and kindness; he communicated to her his determination to consider the case in the light of official duty under oath, and to follow his convictions of right in the case. The case attracted the attention of the people at large, was much discussed in newspapers, and social circles. Hon. Benj. H. Hill, the great criminal lawyer and advocate, who had defended him in vain in the court, and Hon. Daniel Printup, his brother-in-law and an able lawyer, sought and obtained seats in the State Senate, where, on the discussion of the bill for pardon, the former exerted his wonderful power of logic, eloquence, and pathos.

The bill passed both Houses and went to the Governor. After an able review of the case, in which his judgment concurred with the court and jury, reviewing the plea of insanity, as the result of intoxication, the Governor concludes his veto message in the following language, which well illustrates the times, the case, and the man of iron will in the discharge of official duty:—

“In determining a question of the character of the one now under consideration, I should be unfaithful to the high trust reposed in me, if I should permit my reason to be overcome by my sympathy.

“No act of my life has been more unpleasant than the one I now perform. No one has a higher appreciation of the character of the relatives of the defendant, and no one would more sincerely rejoice to be able to soothe the feelings of a mother whose heart, pierced with anguish, now languishes with untold grief. But, if it were proper for me on this occasion to be influenced by considerations of this nature, I should do wrong, were I to contemplate the sufferings on one side, and refuse to look upon the picture of misery on the other.

“A few months since the family of Webb, the deceased, was comfortable and happy. His wife and little children had the care and protection of a fond husband and a kind father; but in a moment of time, by the cruel act of the defendant, the wife a widow, and the children orphans, were left to mourn their irreparable loss, and were thrown upon the cold charities of the world almost friendless and penniless, to make their way through life as

best they could, poor and neglected. But duty forbids that I should be influenced by the contemplation of this scene of misery on either side. The laws must be vindicated, and crime must be punished, or society cannot be protected, and Courts and Juries must be sustained in the administration and execution of the criminal laws of the land, or violence and bloodshed will prevail to an extent that will excite and prompt our people to take the law into their own hands, in the belief that it is the only protection left them.

"I am not unmindful, while making this decision, that the pardoning power is a necessary one in every well regulated government, and that there are some cases in which it ought to be exercised, as in cases of partiality, prejudice, or highly excited feelings on the part of the Court or Jury by whom the case was tried, rendering it highly probable that injustice was done the defendant, or on account of perjury or mistake on the part of the witnesses for the State, which is afterwards discovered, and which may have materially influenced the verdict against the defendant, or in cases of conviction upon such slight evidence that the mind is left in great doubt about the guilt of the defendant, or in cases of extreme youth,—in these and possibly a few other instances when injustice is likely to be done, and when the remedy is no longer within the reach of the Courts, the humanity of our Constitution has wisely vested in another department of the government ample power to prevent the injustice, by extending a pardon, and thus arresting the judgment of the Court. But it should not be forgotten that this power is subject to be greatly abused, and that it was not the intention of those who formed our Constitution, that the verdicts of Juries and the judgments of Courts should be indiscriminately annulled by its exercise, and felons convicted of atrocious crimes thereby turned loose again upon the community; the extension of mercy to such offenders is the infliction of cruelty and injustice upon society. I am also aware that it is argued that the pardoning power is a Godlike power, and that it is noble to exercise it. But it should not be forgotten when this argument is used, that God himself required no less than the blood of his own Son as an atonement for sin before he exercised the pardoning power, and 'without the shedding of blood is no remission,' is the language of his eternal truth. God has said in his revealed law, that 'the murderer shall surely be put to death,' 'moreover ye shall take no satisfaction for the life of a murderer which is guilty of death: but he shall be surely put to death. So ye shall not pollute the land whereon ye are, for blood it defileth the land, and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.' If then we would respect the revelation of God, and save our land from the stain of innocent blood, we must execute the law and punish the guilty. Some may say that the stern truths of the Bible are not suited to the humanity and sympathy of the present age; they are none the less truths, however, on that account, and it is none the less certain that the curse of

God will rest upon that State or nation which disregards them, and that his blessings will attend those who obey them."

The pardon failing, for the want of a two-third vote over the veto, the pending writ of error was prosecuted in the supreme court, and the conviction was affirmed. In the Legislature, a year later, a bill was passed to pardon him, and place him in the lunatic asylum. This bill was also vetoed by the Governor, on the grounds that the supreme court had reviewed and pronounced upon the whole case, and thoroughly considered the law of insanity in its application to this case. And upon the further ground that there was no power in the Legislature to adjudge him a lunatic, and commit him to the asylum, which could only be legally done by the court having jurisdiction of the case. This bill was passed over the veto, and Choice sent for a short time to the asylum, and died there.

BANKS AND BANKING.

November 5, 1857, the retiring Governor Johnson communicated to the Legislature in his general message:—

"In the midst of prosperity and remunerating prices for the products of agriculture, our banks have generally suspended specie payments, resulting in panic, broken confidence, and general stagnation in commerce. As the session of the General Assembly was so near at hand, and the suspension seemed to be necessary, as a measure of self-defence against the heavy drafts upon their coin, to supply the demand for specie at the North, I thought it prudent to withhold any action against them, as required by law, until the Legislature, in its wisdom, should have an opportunity of deliberating upon the matter, and directing what course ought to be pursued towards them. I therefore submit this whole subject to your consideration; and to enable you to act advisedly, I herewith transmit to you copies of the late returns of the various banks of Georgia, exhibiting their condition, made in pursuance of executive proclamation. It is gratifying that these statements afford evidence of their solvency. Will you legalize their suspension and fix a day in the future when they shall resume specie payments? As a general rule, it is safest to meddle as little as possible with the currency of the country. The laws of trade regulate it best. Hence, in view of the crisis that is upon

us, complicated, as it is, with the interests of agriculture, and the price of its productions, it would seem to be wise to tolerate the suspension, in reference to all those institutions, which, upon examination, shall prove to be sound and solvent. It is not only legitimate, but the duty of the Legislature to investigate thoroughly the condition of the banks; to institute a diligent enquiry into their mode of transacting business, and, by the use of all the powers—even to sending for persons and papers—which may be necessary to ascertain whether they have confined their operations strictly within their appropriate spheres, or whether they have embarked in speculations, by placing their funds in New York, to shave southern paper at a heavy discount, or in any other manner departed from the objects contemplated by their charters. It is due to the country that a full exposition be made; it is the only manner in which the public can be protected. If such abuses shall be detected, let the Legislature, in granting them tolerance in their present predicament, put them upon terms which will prevent their recurrence for the future."

This message came from one of the most able and popular governors the State has had, and it was natural for the General Assembly to follow its suggestions, by the passage of an act to legalize the bank suspensions, and relieve them from the forfeiture of their charters, to which by suspension, they became liable. And the passage of the legalizing act recommended, developed in the young Governor a trait of character and a firmness in the face of the moneyed corporations of the State that drew to him the admiration of the people. His attempt to throttle the banks, and to force them like individuals to obey the laws of the State, was a sublime exhibition of moral courage, and imbedded him securely in their confidence, while it arrayed against him a monetary power and political influence that were well calculated to deter weak and timid men. His terrible review of banks and banking in this State, in reply to their pleas for suspending specie payments, in the veto message, to which no successful reply could be made, is one of the State papers that will do to be read in any country, or stage of civilized government, by people seeking the height of truth and jus-

tice. The document is elaborate and exhaustive. The foundation, premises, and conclusions are in the following extracts :—

“ Our banking institutions have exclusive privileges conferred upon them by law which are very valuable, and which the laboring masses are prohibited under a heavy penalty from exercising upon the same terms upon which the banks exercise them. The banks are permitted by law, without bond or security, to loan their credit, or, in other words, their own notes as money, and to charge interest upon them. The laboring man, whatever may be his occupation, is denied this privilege, and is subject to indictment and punishment as a criminal if he attempts to exercise it. He can receive interest only upon the capital which is the income of his labor ; and upon this he is permitted to charge only legal interest, or seven per cent. per annum. The laboring masses produce the capital. Indeed, all capital is the result of labor ; and that system of legislation which establishes a favored class, and confers upon them privileges denied to others, by which they are enabled to enrich themselves by taking from the laboring masses the income of their labor, is not only unjust, but contrary to the genius and spirit of our government.

“ I affirm that our banks, which have suspended and so continue, are guilty of a high commercial, moral, and legal crime. Of a commercial crime, because they have brought the present crisis upon the people for selfish purposes, when there was no great necessity, and when by spending a few thousand dollars of their immense profits in the purchase of specie the suspension could easily have been avoided. By refusing to do this they have destroyed public confidence, deranged commerce, caused our great staple to fall several cents on the pound, by which our planters have sustained a loss of several millions of dollars, and the value of property throughout the State has greatly depreciated. The credit of the State abroad has been injured, while general distrust and depression have been the result. They have been guilty of a moral crime by violating their contract with the people, in refusing to meet their solemn promises when they acknowledge, nay, even boast of their ability to do so, thereby doing the grossest injustice to the laboring masses who have confided in them and been deceived by them. They have been guilty of a legal crime by wilfully and knowingly violating and setting at open defiance a positive statute of the State, making the price of our property, the price of labor, the happiness and welfare of the people, and the law of the State all bend to their interest. They are governed solely by their interest, and it is their interest in times of prosperity to expand and extend their circulation, raise the price of property, stimulate a spirit of speculation and involve the country in their debt as much as possible.

* * * *

“ In 1840, while the people were passing through one of those periods of

distress above alluded to, they determined to protect themselves, if possible, against such a state of things in future; and, through their representatives, they passed a law requiring the banks which had suspended to resume specie payment within less than two months after the passage of the Act and requiring all the banks of this State in future to redeem all their liabilities in specie, on *demand* or *presentation*—while forfeiture of the charter was provided as the penalty for a violation of the law. The people relying upon this plain statute, as well as the common law which takes away the charter of a corporation which abuses the trust and palpably violates the contract upon which the charter was obtained, supposed they were secure against further bank *suspensions*. On account of the value of their corporate privileges it was believed that motives of interest would prompt the banks to make, out of their large gains, a sacrifice, if need be, sufficient to enable them to procure the specie and redeem their bills to save their charters. It was not then believed that the banks would have the power to violate the law with impunity, and to dictate the terms of their own pardon. Since the passage of the Act of 1840, the number of banks and the amount of banking capital in the State have greatly increased. As their number and capital have increased, their power in the State and their influence over the legislation of the country have increased. Who has not observed within the last few years the increasing influence of our wealthy corporations over our Legislature? When their interest is at stake, outside pressure becomes very strong upon the law-making power and is too sensibly felt.

“If the suspension is legalized it cannot be denied that the banks have triumphed over the people and set the law at defiance. They have made at once the interest upon the whole amount of their circulation for the entire period of the suspension. They receive interest upon all their bills; they pay no interest and cannot be compelled to redeem the bills. It is no reply to say that they may be sued and compelled to pay interest after protest, and ten per cent. damages. The bills are scattered all over the State in the hands of the people, in small sums, and not one in fifty has an amount of the bills of any one bank large enough to justify him in employing a lawyer in Augusta or Savannah, and standing a suit with the bank. Better give up the debt in many cases than incur the expense, trouble, and delay. Legalize the suspension and the bills still further depreciate, property falls lower, and exchange rises higher. The country has no currency but depreciated bills, (for the banks will lock up all the gold and silver in their vaults) and we have no means of determining which banks are solvent, and which are insolvent. At the time set for them to resume the insolvent banks would be unable to do so. During the suspension they would have flooded the country with their bills and the failure would then fall much more heavily upon the people than it would if they were wound up now before they have time to increase the circulation of their worthless bills. If they are not good the sooner the test is made, and the fact known, the better for us all. If they are good,

they can buy gold and resume specie payment. If they do not, let their charters be forfeited."

The General Assembly, although Democratic, was not apace with the pioneer Governor in his attempt to execute the law upon banks, and to protect the people. He was in this, as in many other respects, living in advance of even the higher classes of intelligent leaders, who regarded the summary course he recommended harsh and hurtful in its certain effects on commerce, credit, and the general business of the country. They overruled his veto and passed the suspension Act; but behind the legislators stood the people in almost solid phalanx with their heroic Governor. The banks felt that the Executive was, when true to the trusts of his high office, a power in the State not to be scoffed or derided, but to be obeyed and respected when charged with the duty of protection to the people.

The Act granted them until the 15th of November, 1858, to resume; but the voice of the people and the odium of suspension in the face of the statute of the State caused the resumption by the first of May preceding.

In the general message of November, 1858, after stating the history and effect of this bank controversy the Governor says:—

"For the purpose of compelling these corporations to yield obedience to the law in future, I respectfully recommend the penalty for disobedience be increased, and in addition to the penalty already prescribed, that a tax of two per cent. a month upon the whole amount of the capital stock mentioned in the charter of each delinquent bank be levied and collected in gold and silver for the entire time during which any such bank may in future remain in a state of disobedience, and fail to make its returns as directed by the statutes. There can be no just reasons why wealthy corporations should be permitted at their pleasure to set the law at defiance, while individuals are compelled to suffer rigorous penalties for its violation. The mandates of the law should be obeyed as promptly and implicitly by the most influential and

wealthy as by the poorest and most needy. This is republican equality, and our people should be content with nothing else.

I presume it will not be denied by any one that we have erred by a too liberal and unguarded grant of corporate powers and privileges to moneyed monopolies. And it is believed that a future extension of this policy would soon enable these monopolies to control the government of Georgia and make the people the subjects of their power. It is already claimed by some that they now have the power, by combinations and free use of large sums of money, to control the political conventions and elections of our State, and in this way to crush those who may have the independence to stand by the rights of the people in opposition to their aggressive power. I trust that the bold, independent and patriotic people of Georgia may never be compelled to bow the neck in subjection to the yoke thus intended to be imposed by the corporate powers of the State. Let it not be forgotten, however, by those who have watched with anxiety the growing power of corporate influence, that the price of republican liberty is perpetual vigilance.

"The monetary and commercial affairs of the country must necessarily remain subject to panics, under heavy pressures, at certain, if not frequent intervals, as long as our present banking system is continued with its enormous powers and privileges, which have been enlarged and extended by legislative enactment, chartering new banks from year to year. The people should take this subject into serious consideration, and pronounce upon it a calm and deliberate judgment. Every intelligent person must admit that it is impossible for a bank having a paper circulation three times as large as the amount of its specie to redeem all its bills in specie on demand. Should all its bills be presented for payment at any one time, and the specie be demanded, it can then redeem but one-third of them. In that case, if the bank has sufficient assets, or property, the other two-thirds may possibly not be an ultimate loss, but payment must be delayed till the money can be realized by a disposition of those assets and property, which may not be till the end of a lengthy and uncertain litigation. It is clear, therefore, that our present paper currency is not a currency convertible, at all times, into gold and silver upon presentation; and that only one-third of it, should payment be demanded on all at one time, can, in the nature of things, be so convertible, so long as the banks issue three dollars in paper for one in coin.

"In my judgment, no paper currency is safe which is not so regulated as to be at all times readily convertible into gold and silver. It is true, our people, by a sort of common consent, receive the bills of the banks and use them as money, though in reality they rest on no solid specie basis. But sad experience has taught us that such a circulating medium subjects the country to panic at the first breath of distrust or suspicion, which may be produced by the failure of a single bank having a large circulation and extensive connections with other banks, and may widen and extend to the prostration of the credit of the whole country. Such a currency, having no solid specie basis,

can be available only so long as the community will consent to receive *promises to pay money in the place of money itself*.

"The people take from the banks their bills *as money*. The banks receive interest, and often exchange, upon them. When required to redeem their bills in specie, they suspend, if they choose to do so; and then, if an attempt is made to coerce payment in specie, they resist it, holding a rod over the people by threatening to make them pay upon a specie basis debts contracted by them for the bills of the bank; notwithstanding those bills, when they received them, rested on a basis of one-third specie. The high prerogative of exercising banking privileges, and of issuing their own notes or bills to be circulated as money, not resting upon any solid specie basis, is secured to the banks under our present system of legislation as an exclusive right, while the exercise of similar privileges upon like terms is denied to all individual citizens of the State by stringent penal enactments.

"The privilege of using their own notes as money gives, to the favored few who enjoy it, immense advantages over their fellow-citizens, and may often enable the managers of these corporations to amass great wealth by their high salaries and large profits. It may however be said that many of the stockholders are widows and orphans; that the stock is in the market for all; and that the dividends are not greater than the profits realized from other investments. This may be admitted. Indeed, it seems in practice to be generally true, that corporate privileges do not result so much to the benefit of the mass of stockholders as to the benefit of the few who manage the corporation. To estimate correctly the profits made out of the people by those engaged in banking, we must not only count the dividends of seven, eight or ten per cent. distributed among the stockholders, but we must also take into the account the banking houses, real estate and other property purchased out of the profits of the bank and held by the corporation. Besides, we should consider a reserved fund of two, three, or four hundred thousand dollars, made up of accumulated profits, and often kept back by our larger banks and not distributed among the stockholders, together with the high salaries of all the officers of the bank, which must be paid before any dividends are distributed. These sums, though made out of the people by the banks, are not semi-annually divided among the stockholders. To these add all sums paid to attorneys, agents, etc., and all amounts lost by defaulting agents, which, while they cannot be set down as profits of the corporation, since neither its officers proper nor its stockholders are benefited thereby, are still sums of money which, under the workings of the system, are drawn by the corporation from the pockets of the people.

"To all this add the large sums lost almost every year on account of broken banks, whose bills are left worthless in the hands of the people, who have paid full price for them as money. And take into the account the further fact that the State, in 1848 and 1849, issued \$515,000 of her bonds, to meet her liabilities on account of the Central bank, \$240,000 of which

are still outstanding. And that in 1855, she issued \$48,500 of bonds to pay her indebtedness on account of the Darien bank, which are still unpaid, making \$288,500 of bonds on account of these two banks which still remain a portion of the public debt, the interest upon which is paid annually out of the taxes of the people—and we may form some estimate of the amounts which the people of Georgia have paid and continue to pay in taxes, and suffer in losses, to sustain the banking system.

“Again, in many instances, those who control the corporation may have great advantages in being able, if they choose, to obtain such accommodations as they may desire, by the use of its funds, when a favorable opportunity for speculation occurs. The dividends paid to stockholders are therefore no proper criterion by which to judge of the advantages of the corporation to those who hold its offices, and control and manage its capital and its operations; or of the sums lost by the people on account of the workings of the system.

“Thus far I have discussed this question upon the supposition that the liabilities do not exceed three dollars for every one of specie actually on hand in the banks to meet and satisfy them. This supposition is more favorable to many of the banks than facts will justify. The law of their charters only requires that their liabilities shall not exceed three dollars for every one of capital stock actually *paid in* and not three dollars for every one of specie on hand to meet those liabilities. As an illustration of the error of our present legislation in incorporating banks, suppose the amount of the capital stock of the bank be limited by the charter to \$500,000 which is to be *paid in*, in gold and silver, by the stockholders. The charter then provides that the liabilities of the bank shall at no time exceed three times the amount of the capital stock actually *paid in*. The stockholders *paid in* the \$500,000 in gold and silver. The directors of the bank may then, without any violation of the letter of the charter, incur liabilities against the bank to any amount that does not exceed \$1,500,000; and that too, without any obligation on their part to *keep in* their vaults the \$500,000 actually *paid in*, or a like sum. If they should take out \$400,000 of their specie and invest it in real estate or other property, leaving but \$100,000 of specie in the vaults, they may still contract debts to the amount of a million and a half, and may point in triumph to the language of their charter, and to the fact that the \$500,000 of capital stock was once actually *paid in*, as their authority for so doing.

“This bank legislation of our State does not seem to have been well understood by our people. They have generally believed that banks, by the letter of their charters, were required to have on hand at all times an amount of specie one-third as large as the entire amount of their liabilities. The banks have understood the matter very differently, and have not only claimed, but exercised the right when they regarded it their interest, to extend their liabilities far beyond three dollars for every one of specie actually

on hand to meet those liabilities. By examination of their returns made to this department in October, 1857, it will be seen that at the time of the late suspension of our banks in Augusta and Savannah, the liabilities of one of them for bills in circulation and individual deposits, exceeded *thirteen* dollars for every *one* dollar of both specie and bills of other banks which it then had on hand. Another had only *one* dollar in *specie* in its vaults for every *fifteen* dollars of its liabilities for bills in circulation and deposits. Another had not *one* dollar in *specie* for every *seven* of liability for bills in circulation and deposits; and another had only *one dollar* in *specie* for every eleven dollars of its liabilities of the character mentioned above. It is true these banks had other assets, but those assets were not money. The question naturally suggests itself, how can such a currency be convertible into gold and silver—the money of the constitution—on demand or presentation? How can a bank with *fifteen* dollars of cash liabilities for every one dollar in specie, or even of five dollars for one, pay its liabilities promptly on demand? It is impossible. And how can its bills be justly considered safe as a circulating medium, or *as money*, if it cannot redeem them promptly on demand?

“In consideration of all the imperfections and abuses of our present banking system, I am of opinion that we should do all in our power to bring about its complete reformation, and if this be not possible, we should abandon it entirely. I am the advocate of no harsh measure that would either violate the legal rights of the present corporations (however unwisely they were granted), or that would bring distress upon the people by a sudden return from a paper to a specie currency. A reformation so radical, if attempted, must be the work of years. If the Legislature would continually refuse to charter any new bank, or to enlarge the capital stock of, or re-charter any bank now in existence, the system would gradually work itself out by efflux of time; and we might, without any sudden shock, return safely to the currency of the constitution, plant ourselves upon a firm specie basis, and rid ourselves of a system against which the great and good men who conducted the revolution and formed our constitution intended to guard their posterity, when they declared in the constitution that nothing but gold and silver coin should be made a legal tender.

“In two of the States of this Union banks are prohibited by constitutional provision; two others have no banks, and another had but two small banks, whose charters, it is said, have been forfeited by the late suspension. And I am informed upon what I consider reliable authority, that the late commercial pressure was comparatively but little felt within the limits of those States.

“Should our people determine, however, to continue the present banking system, and to charter new banks, increasing their number and thereby increasing their power in the State, I would respectfully urge the importance of guarding all charters with much greater stringency in the future. Let the charter of each provide that the entire liabilities of the bank shall at no

time exceed three dollars for every one of specie actually in its vaults and bona fide the property of the bank, on pain of immediate forfeiture. Let the simple fact of suspension of specie payment render the charter absolutely null and void. This would deter them from engaging in such wild speculations and over-issues as compel them to suspend in case of pressure. Let provision also be made that all executions issued against the corporation may be levied upon the property of any stockholder until the creditor be satisfied, leaving the stockholder to his legal remedies against the rest of the stockholders to enforce contribution among themselves. Let the bills of the bank in the hands of the people at the time of suspension bear interest from that time till paid. And let the Legislature retain the right, by express reservation in the charter, to alter, modify, or repeal it at pleasure. In my opinion it would be best for the Legislature to refuse to grant a charter to any corporation for any purpose whatever without retaining a similar power, should its exercise be required by the interests of the State or the public good. If the corporation is unwilling to trust the people with this repealing power, how much more should the people be unwilling to trust the corporation without it."

Two years later, when the then recent election of Mr. Lincoln, the abolition candidate, as president, rendered secession and revolution probable, and when the State was preparing for a convention to determine her course, the banks again sought relief by an Act to legalize their suspension.

On the 30th of November, 1860: "For the general reasons against bank suspensions contained in the message of December, 1857," he returned the Bill without approval in an elaborate message setting forth the history of the question and the results.

The following extracts show the firmness and nerve of the Governor in the maintenance of his opinion of right:—

"The suspension of specie payment by the banks is not for the benefit of the banks but for the benefit of the people! The constant efforts made by bank men to practise upon popular credulity, by the declaration of this strange absurdity, are not a little remarkable. If this be true why is it, when such a measure is to be carried, that our lobbies are crowded with bank presidents, bank directors and bank stockholders who are constantly besieging the members of the General Assembly with clamorous appeals for the passage

of the bill, while the banks with which they are connected co-operate with them for the purpose of keeping up the excitement by refusing to extend the smallest accommodation to the people till the bill is passed? Why is it that these gentlemen never take upon themselves to guard the people's interest and spend money to secure the passage of bills through the Legislature, except when it is desirable to pass a bank suspension bill? This is not the first time I have seen all their influences brought to bear upon the Legislature for the purpose of accomplishing an object in the midst of wild excitement and great alarm. The small number of members of the present General Assembly who were here in 1857, and voted for the bank bill of that year, will, I think, concur with me in the statement, that the excitement at the capitol in 1857 was much greater than the advocates of the present bill have been able to create on this occasion. The people then did not appreciate the favor conferred on them by the passage of the law.

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"It may be claimed that the present political aspect of affairs requires the legislation proposed by this bill. In case the convention of the people of this State, when it meets in January next, shall pass an ordinance declaring the State out of the Union, on account of the refusal of the Northern States to abide by the Constitution, it may become proper to make an exception to a general rule, and permit a suspension for a short time: as a change in the relations of Georgia to the United States' Government might, for a time, produce some derangement in the currency which could not be anticipated by the banks; and they might, in such case, be entitled to a lenity to which they would not be entitled under ordinary circumstances. I do not admit, however, that it is either wise or just to pass an Act in advance which authorizes the suspension till 1861, without regard to what may be the action of the convention. If the State secedes from the Union, the Legislature will probably have to be again convened to provide for our future safety and welfare; and it might then be time enough to determine this question."

The General Assembly, yielding to the clamor for relief and fearing the injurious effects threatened, passed the act over the veto.

This bank controversy, and the unyielding opposition of the executive to everything that tended to result in wrong and damage to the people, through the defalcation of any banking companies, is one important part of her history, which in connection with the sleepless vigilance over the treasury, the sagacious management of the public property and judicious course in providing for and

meeting promptly the State's debts, gave to her Governor a measure of popular confidence and ardor of popular support that grew and strengthened with the severity of criticism, and the vindictiveness of opposition from his enemies. And it goes far to explain the true causes for the advanced position Georgia held among her sister Southern States in credit, the value of her bonds, and the confidence of financial men and institutions abroad.

ADMINISTRATION OF WESTERN & ATLANTIC RAILROAD.

This great public work, as a State enterprise, met with strong popular opposition from its inception based on the Democratic theory of opposition to internal improvements by the general government, and the political doctrine that it is inequitable and unjust to tax the whole people for improvements to particular sections, and for the direct benefit of only a portion of the taxpayers. The friends and advocates of the road replied to the objections by picturing the effect of this enterprise when completed upon the general prosperity of the State and the enhancement of values, and consequent increase of resources, and the means of meeting and discharging the State's debts contracted for the building and equipment of the road, by the opening of a new outlet of travel and commerce to the ocean and gulf through the heart of this State.

Under the rapid historic development of the country within the State, and increase of trade and travel from beyond her limits, and the verification of the theories of the projectors and advocates of the road, the popular prejudice against it as a public work abated; and the people realized the immense value and benefit they had acquired

through the superior wisdom of the men they had opposed and censured for incurring State debts to build it.

But the history of the road, the financial management of it, and the popular feeling growing out of the adverse criticisms of the party out of power, and not enjoying the emoluments of the offices and contracts which the party in power had at command and to bestow, had precipitated difficulties, and great perplexities, to the immediate predecessors of Governor Brown.

The personal integrity and honesty of Governors Towns, Cobb, and Johnson, who had the administration of the State and road for the ten years preceding, were beyond all question by candid men. Still, in spite of all vigilance on their part, complaints against them, and against the Democratic party in power under their administrations of partiality and favoritism for party purposes, and of fraud and speculation, and private speculation on the part of officers and employees were rife, through the partisan press, in public orations, and private discussions of the people. The road was held up to the public as a huge and overpowering means of political and partisan power and control over the people in elections, through the influence of men enjoying and seeking personal advantage and gain.

The Democratic masses did not credit the charges made against their Governors, and the party under their administrations adhered firmly and truly to the integrity of Governor Johnson, whose purity of character was above all suspicion for the four years he had been in power. Still the people, while not willing to quit the party on account of individual abuses and wrongs brought to their attention, earnestly desired some system of reform in the administration of the road, that would quiet, and effect-

ually stop the clamors of the opposition, by the removal of every appearance of the wrongs complained of. Such was the public temper at the time Governor Johnson retired, and Governor Brown was installed.

He had resided in the section of the State through which the road was located, been engaged in the law practice, and presided as judge when its affairs had been investigated, and had been called on as a Democratic leader and public speaker to defend his party against the multitude of charges made against its management. He not only knew and felt the public temper and desire, but understood to what extent there was just cause of complaint. He not only was endowed with superior comprehension and ability, as well as sleepless vigilance and tireless energy, but had more nerve, moral courage, and inflexible will to work out the desired reform than any of the public men of the State probably possessed at that time. And with all these, he combined an honest purpose to bring about the much desired reform ; to cut off extravagance, peculation, and waste, and to make the road a source of revenue in lieu of an expense and burden to the State.

Like his predecessors, he lived to see that it was a moral impossibility to silence all complaints. The antagonism excited by displacements and removals inaugurated a system of severe espionage and criticism upon all his official action.

These complaints from the opposing party soon ceased, and that party derived satisfaction from Democratic discontent. The Governor was subjected to the criticisms and murmurings of displeased men of his own party. He appointed Dr. John W. Lewis general superintendent of the road. A man unlike himself in age and experi-

ence, but, like himself, a Democrat in full accord with the principles and high aims of the party, and a man of great personal integrity, industry, and of economy and success in his own private affairs, who carried with him into this high and responsible and perplexing office not only the purpose to administer it faithfully and honestly, to make the road a financial success to the State, and thus preserve and enlarge his own reputation, but to enhance that of the young Governor by whom he had been appointed, and whom it was his own pride and happiness to have aided in his early struggles to complete his education. And who, like his chief, had been long annoyed by complaints, true and false, of malversation on the part of under officers and employees, and who was, therefore, in full accord with him in the purpose to reform all real abuses, and disarm enemies of the accustomed luxury of complaining even at the appearance of waste.

No time was lost, or pains spared in carrying these aims and purposes into execution. And with the inauguration of rigid and inflexible economy, there arose a merciless complaint—not of waste, corruption, malversation, or peculation—for all appearance of these had instantaneously disappeared; but of alleged niggardly economy and downright stinginess, as well as a total want of financial liberality on the part of the management. Dr. Lewis was assailed with severe complaints on account of his prompt action and stern adherence to the policy of his chief, which challenged his own unqualified approval, and with jest and ridicule for alleged penuriousness. But with the nerve and firmness only equalled by that of his chief, he disregarded them all and plied his mind and all his energies to make the policy, what it proved to be, a grand success for the State. Discontented people even

directed their criticism to the Governor himself, and did not scruple to refer to the republican simplicity and well regulated economy of his own household and private affairs.

He never drank or encouraged the drinking of intoxicating liquors before or after he became Governor, and could not use tobacco or endure the smoke of it. These long enjoyed excitant luxuries were discontinued in the receptions of the mansion ; and that which was based on principle, and his exalted conceptions of morality, and his decided convictions of the ruinous effects of the example of drinking in high life, was attributed to stinginess, or ill advised and distasteful economy on the part of a high public officer, who was expected to cater to the cultivated taste and the appetite of the people with whom he had official or social contact.

But all complaint and criticism were powerless to shake his purposes, or to unsettle the fixed principles of a life shaped by them in private, and carried with all their strength and vigor into the administration of the State, in all her multiplied interests.

The connections of the road were about being largely extended by the completion of the roads northwest of Chattanooga, its western terminus, by which there was an increase in the gross income. By reason of the reform inaugurated, the stopping of unnecessary waste, and useless expenditure, the comparative expenses were diminished, and there began a rapid increase in the net earnings and profits of the road, which were paid monthly into the treasury of the State from that of the road. As a natural consequence, the popularity of the Governor widened, and grew in intensity, and confidence, and approval, and support extended to all classes and parties, in

every section of the State. And the matters alleged against the Governor, of an excess of economy, and an over zeal in stopping leaks, and cutting off useless expenses, were such as to magnify his popularity with the people, and to strengthen their purposes to support and uphold his administration. These purposes became so general and fixed with the large majority of the people of the State, that no public man could assail the wisdom, or question the integrity of his administration, without depreciating himself in public confidence.

In November, 1853, the retiring Governor Cobb, in his annual message, reviewed the affairs of the road, its management and government, advocating a uniform system of government by superintendent appointed by, in harmony with, and amenable to the Governor, and opposed to its sale as had been suggested. He brought before the Legislature the difficulties and embarrassments attending it, and recommended "to lease the road under an act of incorporation. Let a charter be granted with a capital stock of \$500,000, in shares of \$100 each, etc." The General Assembly however did not see fit to carry out his plan, but continued the government of the road under his successor, Governor Johnson.

He, after two years of trial and vexation under the system, in his message of November, 1855, made the following statement and recommendation :—

"The Road is the people's property, constructed for their common benefit and therefore it is peculiarly appropriate for you, as their representatives, to prescribe the line of policy to be pursued. Nor is it necessary to discuss the various plans suggested for its future management. Some insist that it should be sold, either in part or in whole, so as to sever its ownership from the State, or to give its control to private individuals. Others urge that it should be leased for a term of years. These propositions were discussed by my immediate predecessor, and considered by the last Legislature. They

have also, in the mean time, engaged the popular mind, to a considerable extent, and you are doubtless prepared to represent correctly, by your action, the public sentiment. Another mode proposed is, to place its management in the hands of a board, composed of three Commissioners, to be chosen by the people. I refer to these propositions to demonstrate what I believe to be indispensable to meet the expectations of the people of the whole State, and that is, the necessity of removing its administration beyond the arena of politics—of taking it from Executive control—of making it independent of party influences. However widely different these various propositions are, they afford conclusive evidence of the restlessness of the popular mind on the subject. The sentiment is all pervading, and is manifested in a thousand forms, that this is expected and demanded at your hands. How it shall be done is the question for your wisdom. I have no hesitation in expressing the firm belief, that it were better to adopt any one of these propositions, than to permit the road to be managed under the present mode of its organization. The idea of this vast capital being subject to the fluctuations of party politics—confided to agents, who, as a general rule will be changed every two years, in obedience to the utterances of the ballot box, is preposterous and ridiculous in the extreme. It is only railroad men who understand the conduct of these great works. Politicians, who aspire to gubernatorial honors, know but little, if anything, about it. How absurd, therefore, to place the Executive at the head of the road—inexperienced and therefore disqualified—and expect him to manage it with skill and success? How unjust to him—how hazardous to the interest of the people, to saddle him with so heavy a responsibility. Without disparagement to predecessors, it is believed that the road has never been better managed than it has been during the last two years. Economy and punctuality, in every department, have been enforced—not a dollar lost by defalcation—not a dollar recovered in litigation for damages which accrued within that period—but few and slight disasters from running off or collisions of trains—and yet the dissatisfaction and complaint, in certain quarters, are deep and loud. All, all demonstrating that the policy of severing it from Executive control is absolutely imperative. I respectfully urge the Legislature to do it.”

The General Assembly, large as was the measure of confidence in the wisdom of their re-elected Governor, declined to carry out his wish to have the government of the road separated from Executive control.

On retiring in November, 1857, his message contains this statement:—

“ Its gross earnings from the 30th September, 1853, to the 30th of September, 1857, which covers the four years of my administration, have been

\$3,052,260.82. The working expenses of the road for the same period have been \$1,329,411.51, and the net earnings \$1,722,849.31. How has this large amount of net profits been disposed of? Has it been squandered or applied to necessary expenditures? These are questions which should be answered to the satisfaction of the people, and when thus answered, the senseless clamor which is raised against the management of the road, for mere decency's sake, ought to cease. Then see how the account stands.

Net earnings for four years,

\$1,722,849.31."

To which is a tabular statement of the expenditure of the entire amount, of which were paid into the State treasury for 1854, \$50,000 : 1855, \$100,000 : 1856, \$43,500 : 1857, \$100,000 : The balance mainly for locomotives, tracks, depots, cars, etc.

And upon this the Governor makes this comment :

"Whether these expenditures were proper, is left for fair minded men to determine. They, at least, seem suited to the enterprise, and cannot be considered unreasonable, when it is recollected that the road is not even yet completed and thoroughly equipped for the annually increasing business it is compelled to accommodate. At all events, it will scarcely be asserted by any having a due regard for veracity, that the money has been either stolen or wasted. But these heavy expenditures will not be required hereafter. The time has come for the patience of the friends of the road to have its reward. I fully concur with the Superintendent, that henceforth, under proper management, it will pay into the State Treasury \$350,000 annually.

"It may be suggested, however, that the mismanagement is not in the application of the net earnings, but in the expenses of maintaining and working the road. Let us see how the State Road compares, in this respect, with other roads in the State, what proportion the current expenses bear to the gross earnings. The gross earnings of the Georgia Railroad, for the last four years, were \$1,016,346.14; the expense for working and maintaining it, for the same period, were \$1,848,617.02, or about 45 per cent. The gross earnings of the Macon & Western road, for the four years, from December, 1852, to December, 1856, were \$1,290,445.00, and the working expenses for the same period, \$468,340.00, or 50½ per cent. The gross earnings of the Central Railroad, including the line from Gordon to Eatonton, from December 1, 1853, to December 1, 1856, and the line from Millen to Augusta, to the 1st of January, 1856, were \$1,697,269.68; and the current expenses for the same period, were \$2,219,043.17, or 47½ per cent. These are confessedly the best managed company roads in Georgia. But the Western & Atlantic Railroad compares favorably with them in reference to the point under consideration. Its gross earnings for the last four years are \$3,052,260.82,

and its working expenses, for the same period, \$1,329,411.51, or a little less than 43½ per cent. It would seem that the country might afford to be satisfied, if the State road be managed as cheaply as those of private companies. Certainly the fact is worthy of consideration, when its administration is branded with corruption and mismanagement."

With this the Executive authority of the State, which continued to hold the management of the Western & Atlantic Railroad, passed into the hands of Joseph E. Brown, where both remained up to and during the late war, and the surrender of the State with the Confederate authorities and property at its close.

The results of Governor Brown's policy and sagacity, his energy and firmness, are briefly stated in the following extract from his annual message in November, 1859, and after his re-election as Governor.

"For information in reference to the condition, management and incomes of the Western & Atlantic Railroad for the year ending 30th September last, you are referred to the Report of Dr. John W. Lewis, its very vigilant, efficient, and worthy Superintendent. I feel that I do but an act of justice when I say that in my opinion the State has at no time had connected with the road, in any capacity, a more competent, trustworthy, and valuable public servant. It will be seen by reference to his Report, that the sum of \$102,000 in cash has been paid into the State Treasury from the net earnings of the road during the fiscal year ending 30th September last; and it will be seen by the report of the State Treasurer and Comptroller General, that four hundred and twenty thousand dollars have been paid into the Treasury during the fiscal year ending 20th October, 1859. The old iron on about 25 miles of the track, has, since the 1st January, 1858, been taken up and its place supplied with heavy new rail. The road-bed and all the superstructure and machinery are kept in excellent order. No new debts are contracted which are not promptly paid monthly, if demanded; and no agent appointed or retained in office during my administration is known to be a defaulter to the amount of a single dollar.

"I confess that the amount paid into the Treasury from the road, during the past year, has somewhat exceeded my expectations. For this I am indebted not only to the Superintendent, but also to the untiring efforts of the honest, industrious, and faithful officers and agents associated with him and under his control.

"It has, I think, been clearly shown within the last two years that the

road owned and controlled by the State is a productive piece of property, and with proper management in future, I feel safe in the prediction that it will remain so and that the incomes from it will continue to increase with the increase of population, business, and wealth in the country.

"So long as the road remains under my control I invite strict scrutiny into its management; for I subscribe fully to the doctrine that it is proper to hold public functionaries to rigid accountability. And I am willing that judgment be pronounced upon my official conduct under the application of this rule.

"In the construction of the road under State management it is not doubted that there were in many instances too lavish an expenditure of the public money, and that it cost a much larger sum than it should have cost. I am not prepared on that account, however, to admit that any good reason exists why a State may not manage a great public work of this character with as much honesty, economy, and success as a corporation. To accomplish this object it is only necessary that the officer having the appointing power select agents who are competent, honest, and faithful; that he lay down strict rules for the government of their conduct; that he give so much of his individual attention to the work as will enable him to know whether or not those rules are violated; and, in every case where he discovers he has been deceived in the selection of a proper agent, or, where an agent has palpably violated the rules laid down for his government, that he may have the moral firmness and nerve without regard to personal considerations, to apply the corrective by a prompt removal. The observance of these rules is, in my opinion, a duty of the appointing power from which he should never shrink. If he performs this duty he can seldom fail of success.

"Regarding it as a matter of interest, I have endeavored at the expense of considerable labor, to ascertain the original cost of the State Road; but I find it impossible, for the reasons given in the able and very valuable report of Col. P. Thweatt, comptroller general, who has also given much attention to this subject, to arrive at a conclusion with entire accuracy. It is believed that the report of Mr. Garnett, then chief engineer, made in 1847 of the amount expended to that time is about correct. He estimates the whole cost to the date of his report at \$3,305,165.88. Since that time there has been appropriated to the construction of the road, its equipments, etc., in cash and in the bonds of the State, the sum of \$1,136,366.27. Add these sums together and we have \$4,441,532.15 as the total amount appropriated by the Legislature, and paid out of the State treasury for the construction and equipment of the road. This, in my opinion, is a very near approximation to correctness.

"I am aware that some persons, in accounting for the gross incomes of the road since its completion, have charged large amounts of these incomes to construction. These sums were, I think, generally more properly chargeable to repairs, &c, than to original construction. As an instance, the Etowah

bridge was burned down some years after the road had been in operation, and it became necessary to build a new one. The cost of this could not properly be chargeable to original construction, but was, I think, properly chargeable to repairs on account of casualty.

"A portion of the iron originally laid down on the track became so much worn as to be unsafe, and it was necessary to procure and lay down new iron in its place. The cost of this also was properly chargeable to repairs and not to original construction. If a Depot building was sufficient, when the road was completed, to accommodate all who had business at the place, but which afterwards, on account of the decay of the structure or increase of business at the location, was found to be insufficient, and it became necessary to build a new one, its cost could not justly be charged to original construction.

"Without multiplying instances of this kind, I conclude that as soon as the Legislature had appropriated a sufficient sum to complete the road, and to place upon it the superstructure and machinery necessary to the transaction of the business offered by the country to the road, the original construction account was at an end, and that all such enlargement of buildings, reconstruction of bridges, renewals of superstructure repairs of track, &c., &c., as were afterwards required for the safety of transportation and travel over the road, or for the accommodation of increased business, is properly chargeable to expense of keeping up the road, and not to expense of building and putting it into operation. Had the road remained unproductive to the Treasury for a quarter of a century, on account of bad crops, casualties from fire or flood, commercial pressure, bad management, or from any other cause, it could only have been evidence that the original investment was an unfortunate one for the time; but surely the repairs made and all the State's losses during that time, could not, in justice to the officers afterwards in charge of the road, be properly chargeable to original cost in calculating the per cent. which the road might afterwards pay upon the original investment. Estimating the original cost, therefore, at \$4,441,532 15, the road during the past fiscal year (ending 20th October last) has paid into the treasury of the State nearly nine and a half per cent. upon the original investment. And it should not be forgotten in this connection that it was built at a time when rail-roading was not well understood, and that it was built as a public work, at a cost greatly more than would have been expended in its construction, even at that time, by a private company.

"Had the same economy been used which is usually practised by private companies, the whole cost of the road would not probably have exceeded, if it even had amounted to, \$3,000,000.

"The sum paid into the treasury during the past year is fourteen per cent. upon that sum. In comparing the present management of the road with company management, it is certainly just to the present officers, who did not build it, to count the per cent. upon such sum only as the road should rea-

sonably have cost had it been built by a company, and not upon such sum as it may have cost under the extravagant system which is sometimes practised in the original construction of public works."

After three years' trial, in the annual message of November, 1860, the Governor thus states the result of the last year's operations:

"It will be seen upon an examination of the report of Dr. John W. Lewis, the able and faithful superintendent of the State Road, that the road is in excellent condition in every department, and that the net amount paid into the State treasury for the past fiscal year is \$450,000. This sum has been paid into the treasury after deducting all expenditures and making all necessary repairs, and after paying \$22,940 of bonds and coupons of the funded debt of the road, which fell due 1st January and July last, together with over ten thousand dollars of other old claims, which originated before the commencement of my term in office, and which had been for years in litigation. It affords me pleasure to add that the officers of the road, in every department of its management, have generally been diligent and attentive and have acquitted themselves with much credit during the past year."

INTERNAL IMPROVEMENTS BY THE STATE.

As early as November, 1855, Governor Johnson, while he announced the opinion to the Legislature that it was unwise and inexpedient to appropriate money or subscribe stock by the State to aid in the construction of railroads, favored the idea of "completing the skeleton of the system so as to extend an arm into each of the grand geographical sections or divisions of the State, by lending her credit under securities and guarantees, which would place her beyond the contingency of ultimate liability and loss."

He sanctioned and approved the Atlantic & Gulf Road charter, which provided for \$500,000 stock by the State in it, while he disapproved of the plan of granting State aid.

In November, 1857, he announced to the General Assembly that, "in granting new railroad charters they should never lose sight of the policy of protecting her

State Road from ruinous competition; she should be careful not to cripple the efficacy of company roads which have been built by private capital; she should preserve the symmetry of the system of our internal improvements, so that in its further development and growth to maturity it shall, as a primary object, promote her own wealth and the prosperity of her towns and seaports."

He adds—

"Augusta, Savannah, and Brunswick are the three points of commerce at which the productions of our agriculture must find their market and their door of exit to the marts of the world. The perfection of our internal improvement system, as well as the interests of agriculture, requires that each of these commercial points shall be connected as directly as possible with each section of the State, so that all our people may enjoy a choice of markets for the sale of their produce. The State may aid in the construction of lines of road projected in reference to such connections, upon guaranties of security that prevent the possibility of ultimate loss. Beyond this she ought not to go. As to the mode in which she should extend her aid, I prefer the loan of her credit for a given amount per mile, to a subscription for stock. By the former method she can secure herself by statutory lien upon the road and its appurtenances; whereas, by the latter, she must rely upon the success and profits of the enterprise."

When Governor Brown came into office the incomplete railway system of the State was of paramount importance, and public opinion, while it favored progress and extension of the system, was by no means harmonious as to the part the State should take in providing means for the purpose. Many people regarded the prospective profits as a sufficient inducement to private capital, controlled by intelligence, to assure the construction of all roads that were required by commerce and travel, and that as a natural sequence they would be constructed in due time. They favored liberal charters to private companies, and opposed the policy of the States furnishing money or incurring pecuniary obligations to build them.

Others regarded the matter in the light of public policy and the demands of the situation to keep pace with the improvements in progress on the east, north, and west of us; and the immense advantages of leading in the general scheme, so that this State shall have a controlling influence in the general system of improvements, and for the more direct effects of equalizing the benefits among all the people and every section of the State; and for the general enhancement of values and increase to the State of her sources of revenue.

It was an issue between progressive democracy on the one hand, and stationary and cautious conservatism on the other. It was an issue to summon the decisive energy, and put in action the mental and moral force of the popular young Governor, who was in all his nature, his antecedents, and his impulses, as well as fixed opinions, a man of progress. And the threatened evils were of sufficient moment to make the matter of securing the State one of equal importance with that of internal improvements. In his first annual message he took the following bold ground after reviewing the State's relations with existing roads.

"Other sections of the State are still destitute of the advantages of railroad facilities. I am decidedly of opinion that it would be good policy for the State to lend her credit to aid in the construction of such roads as may be necessary to develop her vast resources, *provided* she be made perfectly secure beyond doubt against ultimate loss. This could be done by the endorsement of the bonds of the company, by the State, after a certain proportion of the road is first completed, for an amount sufficient to enable the company to purchase iron for the road. The bonds thus endorsed should be made payable twenty years after date, with six per cent. interest, payable semi-annually; and let the State take a mortgage upon the entire road, and all its appurtenances, declared by law to be prior to all other liens; to be foreclosed, and the road and its appurtenances sold in sixty or ninety days after the failure of the company to pay any instalment of either interest or principal when due. And in the event the whole road and its appurtenances

should fail under such mortgage sale to bring a sum sufficient to pay the entire amount for which the State shall have become liable, on account of the company, let the law provide that each solvent stockholder shall be liable to the State, according to the number of the shares he may own, for his proportion of the deficiency. This, in my judgment, would make the State secure; while it would enable each company engaged in the construction of a road necessary to the development of the resources of the State, to obtain the money requisite to its completion, upon such time and terms as would enable the company, should the road prove as remunerative as its projectors anticipated, to refund it out of the future net earnings of the road. Of course such a law should be a general one, alike applicable to all roads in any part of the State, in the benefits of which, all roads now in process of construction, or to be hereafter projected, on equal and well defined terms, conditions and limitations, might participate. Guard the State against possibility of loss, and I am decidedly in favor of State aid, by lending her credit in the construction of all such roads as may be necessary to the prosperity of her people, and the development of her resources."

A year later, reviewing and reiterating the opinions above expressed, and urging that "the law if passed should be a general one, giving to every company in the State, engaged in the construction of a railroad, the same aid, subject to the same liability," and elaborately arguing the policy, he answers one of the formidable objections in the following:

"It is sometimes said that in justice to the railroad companies already in existence, the State should not aid or encourage the building of other roads which may come in competition with those now in operation. Some of these companies are now making very large profits, and while I desire to see them prosper, and would not wish to see their dividends reduced below a point where the stock would be reasonably profitable, no matter how much other interests might be thereby promoted, I am unwilling that such sections of the State as are without railroads should be denied their benefits on the ground that the large incomes of some of the wealthy companies now in existence might be reduced by giving these sections an opportunity to participate in the advantages which would result to them from the construction of other roads. Indeed, I entertain no doubt that the interest of the people requires that the number of roads be increased till no one shall have a monopoly of the business of any very large portion of the State, *provided* that each shall be left with sufficient business to make its stock reasonably remunerative. The greater the competition between the roads the lower will be

the freight and fare, and the better for the interest of those who travel and ship freight over them. When there is no competition, for the purpose of accumulating larger incomes the freights are usually placed by the Company at a very high figure, and the shipper must bear the loss.

"Again, I deny that any Company has a right to complain that injustice has been done it by the State should she permit or encourage the building of such roads as the interest of her people in different sections require, which do not in any manner violate the chartered rights of such company. Most of our railroad charters contain guaranties to the respective companies that no lateral road shall be built within a certain number of miles of the road of the company to which the guaranty is given; say twenty miles, as an instance. These corporations claim that the charter is a contract between the State and the company, and they cling with tenacity to every chartered right given them by this contract, and exercise it, if profitable, no matter how onerous its exercise by them may be to other interests in the State. They should therefore be content with the contract; and should not be heard to complain when the State exercises rights reserved by her when she granted to them their charters. The State, in the case above supposed, as an instance, when she granted the charter, guarantied to the company an exclusive right over a strip of her territory forty miles wide. With this guaranty they were content, accepted the charter, invested their money, and built the road. The interest of a large number of persons outside of the limits embraced in the guaranty probably afterwards requires that they have a road; the State encourages its construction and it is built. What injustice is done to the first company and how have they been deceived? They have the full measure of their rights, and the full benefits of what they insist upon as their contract. It is true, they may not have so large a monopoly as they desire, but they have all they contracted for, while another portion of the State is developed, and the people have the benefits of low freights resulting from the competition.

"The State has taken stock in two railroad companies. I oppose this policy, and do not think she should be a partner with her citizens in such an enterprise. My opinion is that she should have no interest in any property over which she has not the entire control. By endorsing the bonds of the company, with ample security, she complicates herself with none of its private management or affairs."

The policy recommended was never fully adopted; the intervention of war operated to impede the progress of internal improvement as well as public and common school education. No general bill such as that recommended by Governor Brown was passed after the war. The Georgia

Air Line road, chartered in 1856, obtained from the Legislature in 1868 an act to lend the credit of the State to that enterprise, upon the plan of Governor Brown, as to the security of the State against loss by first mortgage lien, and the endorsement of the State of the bonds of the company. Numerous bills of like character in favor of other roads were enacted. But, unfortunately for the State, she wanted the sagacity, care, vigilance, and firmness of Governor Brown to protect her against gross frauds, as will appear in the history of the administration of Governor Rufus B. Bullock, from July, 1868, to October, 1871.

COMMON SCHOOL EDUCATION.

On account of the revolution in public opinion and feeling in the last twenty years in this State, which presents so widely different a situation now from what we know to have existed then ; and on account of what has actually been achieved in general and popular education in the last decade ; and in view of the neglect of previous Legislatures to provide any system of public education that deserved the name, it is difficult to realize and appreciate the forecast and liberal views of the Governor, and the boldness with which he pressed upon the Legislature the subject of common school education.

While he set his head and bent all his energies to the subject of retrenchment, economy, and reform in every department and all the details of government, and to the most rigid scrutiny into everything to be supported or paid for by the State, wherein a dollar might be saved, he exhibited views and plans for the education of the people of the State that were by many regarded as profligate and extravagant, not to say visionary ; and brought them before the Legislature at the end of the first year of

his administration; which are set forth in the following extract from his message of November, 1858.

"The public debt of the State amounts at present to \$2,630,500, payable at different times during the next twenty years. A large portion of this debt has been contracted from time to time on account of the State Road. This debt, it will be remembered, is subject by legislation, already had, to be increased \$900,000 on account of the State's subscription for stock in the Atlantic & Gulf Railroad Company. This would make the whole debt \$3,530,500, should no part of it be redeemed before the bonds of the State for the above mentioned \$900,000 shall have been issued. By the terms of the contract with the bondholders, \$280,500 of this debt is now subject to be paid at the option of the State, though payment cannot be demanded till 1863 and 1868. The Central Bank bonds are also falling due in considerable sums annually. Good faith requires that the debts of the State be promptly met when due. And sound policy dictates that such bonds as are due or not, at the option of the State, be taken up as fast as she has the means.

"The net earnings of the Western & Atlantic railroad are already pledged for the payment of a large portion of this debt. I therefore recommend the passage of an act setting apart \$200,000 per annum of the net earnings of the road to be applied in payment and purchase of the public debt. And, in view of the great and acknowledged necessity existing for the education of the children of the State, and of the immense advantages which would result from the establishment of a practical common school system, I further recommend that a sum as large as the entire amount of the public debt be set apart as a permanent common school fund for Georgia, to be increased as fast as the public debt is diminished; and that the faith of the State be solemnly pledged that no part of this sum shall ever be applied to, or appropriated for, any other purpose than that of education. Let the act make it the duty of the Governor each year as soon as he shall have taken up the \$200,000 of the State's bonds, to issue \$200,000 of new bonds, payable at some distant period to be fixed by the Legislature, to the secretary of State as trustee of the common school fund of the State, with semi-annual interest at six per cent. per annum, the bonds to be deposited in the office of the secretary of State. As the public debt is thus annually diminished, the school fund will be annually increased, until the whole debt is paid to the creditors of the State, and the amount paid converted into a school fund. And as the fund is increased from year to year, the amount of interest to be used for school purposes will be likewise increased.

"Should this plan be adopted, in a few years the school fund of Georgia, including the present fund for that purpose, would be in round numbers \$4,000,000. The amount of interest accruing from this fund, to be expended in erecting school-houses and paying teachers, would be \$240,000 per annum. I am aware of the difficulties which have been encountered by those who

have attempted heretofore to devise a practical and equal school system for the State, owing in a great degree, it is believed, to the fact that portions of our State are very densely, while others are quite sparsely populated. But the fact of our inability to accomplish all we may desire is no sufficient reason why we should neglect to do that which is in our power. Probably the principal cause of our failure in the past is attributable to a lack of funds and of competent teachers.

"With the gradual increase of the fund proposed, it is not doubted that the wisdom of our State would, from time to time, improve our present defective system till it would be so perfected as to afford the advantages of an education to all or nearly all the children of the State. Let the teachers be paid by the State, and let every free white child in the State have an equal right to attend and receive instruction in the public schools. Let it be a common school, not a poor-school system. Let the children of the richest and the poorest parents in the State meet in the school-room on terms of perfect equality of right. Let there be no aristocracy there but an aristocracy of color and of conduct. In other words, let every free white child in Georgia, whose conduct is good, stand upon an equality of right with any and every other one in the school-room. In this way the advantages of education might be gradually diffused among the people; and many of the noblest intellects in Georgia, now bedimmed by poverty and not developed for want of education, might be made to shine forth in all their splendor, blessing both church and State by their noble deeds.

"Should \$1,000,000 be insufficient to raise annually the sum required, the fund might be increased from the incomes of the road to any amount necessary to accomplish the object. The interest on this fund should be semi-annually distributed equally, among the counties, in proportion to the whole number of free white children in each, between six and sixteen, or of such other age as the Legislature may designate. Authority should also be left with each county to tax itself, at its own pleasure to increase its school fund, as at present. And it should be left to the inferior court, or school commissioners of each county, to lay off the county into such school districts as will be most convenient to its population, having due regard to their number and condition.

EDUCATION OF TEACHERS.

"Assuming that provision will thus be made to raise all the funds necessary to build school-houses and pay the teachers to educate all the free white children of the State, the next question which presents itself, and perhaps the most important one of all, is, how shall the State supply herself with competent teachers? raised in her midst and devoted to her interests and institutions?—southern men, with southern hearts, and southern sentiments?

"For the purpose of educating Georgia teachers in Georgia colleges, I propose that the State issue her bonds payable at such distant times as the Legislature may designate, bearing interest at seven per cent. payable semi-an-

nually. The interest to be paid out of the net earnings of the State Road; and the bonds be redeemed out of its proceeds, should it ever be sold. That she deliver \$200,000 of these bonds to the State University at Athens, as an additional endowment; \$50,000 to the Georgia Military Institute, at Marietta, and \$50,000 to each of the denominational Colleges in the State, in consideration that each of said five Colleges will bind itself to educate, annually, one young man as a State student for every \$200 of annual interest which the endowment given by the State pays to the College; furnishing him with board, lodging, lights, washing, tuition, and all necessary expenses except clothing, which might be furnished by the student himself or his parents. The interest on this \$400,000 of bonds would be \$28,000 per annum. This sum would maintain and instruct as above suggested one hundred and forty young men annually, being one from each county in the State, and two from each of the fourteen counties having the largest population, unless other new counties are formed. I propose that these young men be selected from all the counties in the State, from that class only of young men whose parents are unable to educate them, and that only such be selected as are of good moral character, industrious and attentive, who desire an education, and who give promise of future usefulness. That the selection be made in each county by a competent committee appointed by the Inferior Court, after an examination at some public place in the county of all such young men as desire to become beneficiaries, and will attend on a day to be fixed by the Inferior Court, after giving due notice. Let the committee be sworn that they will be governed in the selection by the merits of the applicant, without prejudice or partiality; and that they will select no one whose parents are known to be able to give him a collegiate education without doing injustice to the rest of his family. And I propose that the place of any such student in college be supplied by another, whenever the faculty of the college shall certify to the inferior court of his county that he is neglecting his studies or failing to make reasonable progress, or that he has become addicted to immoral habits. I propose that the State, in this manner, give to each of the poor young men thus selected his collegiate education, on condition that he will enter into a pledge of honor to make teaching his profession in the county from which he is sent for as many years as he shall have been maintained and educated by the State in college; the State permitting him to enjoy the incomes of his labor, but requiring him to labor as a teacher.

“Many of these young gentlemen would, no doubt, adopt teaching as their profession for life. This would supply the State after a few years with competent teachers. And as these young men while teaching in various counties in the State would prepare others to teach without going to college, pure streams of learning would thus be caused to flow out from the colleges, and be diffused among the masses of the people throughout the State. Then we would not so often hear the complaint that the child must unlearn at one school what it has taken it months perhaps to learn at another under an

incompetent teacher. This plan is intended to equalize, as far as possible, the poor with the rich, by giving to as many of them as possible, at the expense of the State, an opportunity to educate their sons in college, a privilege at present confined almost exclusively to the rich; as poor men have not means to educate their sons, however deserving and promising they may be.

“ Under the plan above proposed it is not intended to make a donation, or absolute gift to the colleges, of a single dollar of the bonds of the State. It is intended only to deliver the bonds to the colleges and to pay to them the interest, semi-annually, as a compensation for them to maintain and educate annually, one hundred and forty young men of promise, who could in no other way enjoy the advantages of a liberal education; who in turn are to diffuse intelligence among the great body of the people, thereby supplying the State with Georgia teachers well qualified to teach the youth of Georgia; and who would be, at the same time, the natural friends of her institutions. As part of this plan I also propose that a General Superintendent of schools for the State be appointed with a salary sufficient to secure the best talent, whose duty it shall be to collect valuable information upon the subject, and report annually to the Executive, to be laid before the Legislature; and to traverse the State in every direction, visit the schools, address the people, and do all in his power to create a lively interest on the subject of education.

“ Carry out this plan and who can estimate its benefits on the State? I regard the education of the children of the State as the grand object of primary importance, which should, if necessary, take precedence of all other questions of State policy. For I apprehend it will be readily admitted by every intelligent person, that the stability and permanence of our republican institutions hang upon the intelligence and virtue of our people. No monarch rules here! And it is the pride of our system of government that each citizen at the ballot box possesses equal rights of sovereignty with every other one. Thanks be to our Heavenly Father, the popular voice cannot here be hushed in the silence of despotism, but the popular will dictates the laws. May it thus ever remain! How important it is, therefore, that the masses of the people be educated so each may be able to read, and understand for himself, the constitution and history of his country, and to judge and decide for himself what are the true principles and policy of his government. But how much more important it is, in my opinion, that every person in the State be enabled to read for him or herself the Holy Bible, and to comprehend the great principles of Christianity, in the eternal truths of which, I am a firm, though humble believer. Educate the masses and inculcate virtue and morality, and you lay broad and deep, in the hearts of our people, the only sure foundation of republican liberty and religious toleration; the latter of which is the brightest gem in the constitution of our country.

“ By adopting the proposed line of policy we have it in our power, with-

out increase of taxation or burden to our people, to place Georgia, so far as education is concerned, in the proudest position of any State in the Union. Let her educate every son and daughter within her limits, and she may then justly boast that she is the Empire State of not only the South, but of the whole Union. By this plan the public debt would be reduced, and the school fund increased, annually, \$200,000; and the interest amounting yearly to \$28,000 on the bonds delivered to the colleges, would be paid semi-annually, out of the net earnings of the State road; and there would still be left an annual income from that source of \$72,000, to be applied to other purposes."

The Legislature did not adopt the plan of the Governor, but took what was then regarded as an important step in the matter of public education. The State's bank stock, consisting of 1833 shares of the stock of the Bank of the State of Georgia; 890 shares of the Bank of Augusta; 186 shares of the Georgia Railroad and Banking Co., by Act of the Legislature of January, 1852, had been set apart, as a permanent fund, for the education of the poor. The Legislature to which this message was addressed, added thereto an annual appropriation of \$100,000 of the net earnings of the Western & Atlantic Railroad, to be apportioned to the white children of the counties returned between the ages of eight and eighteen years.

His views expanded with the increase of intensity of his mind and emotions upon the subject of education, and as official duty and experience brought him to the contemplation of the subject in its limitless importance to the welfare of the people, and their descendants in the future.

The disaster of civil war intervened to prevent the consummation of his plans. But justice to a noble and far-seeing patriotism and statesmanship, whose aims were thus thwarted and their grand results withheld from the people of the State, calls for the brief statement of his scheme for the promotion of the higher grades of learning, pre-

sented to the General Assembly in November, 1860, by the permanent and liberal endowment of the

UNIVERSITY OF GEORGIA.

"The far seeing wisdom of those who framed our State constitution not only grasped but fully comprehended the importance of promoting the Arts and Sciences when they inserted in that instrument the following clause:

"The Arts and Sciences shall be promoted in one or more seminaries of learning; and the Legislature *shall*, as soon as may be, give such *further donations* and privileges to those *already established* (the State University was then established), as may be necessary to secure the objects of their institution.'

"This is still a portion of the constitution, which I, and each of you, have sworn to 'observe, conform to, support, and defend.' Have the spirit and intention of this provision of the constitution been carried into effect by the Legislature in the meagre endowment which the State University has received from the State? Have the objects for which the University was instituted been *secured*? If not, is the State not abundantly able to carry the spirit and intention of the constitution into effect without embarrassment to her government or burden to her people? If so, can we consistently, with the oaths which we have taken, refuse to make the necessary appropriation? These are questions well worthy the serious consideration of each and every one of us. But, aside from any obligation which the constitution imposes upon us, can we doubt the wisdom and sound statesmanship of such a course? I cannot think that it is sound policy for Georgia to refuse to endow her University, while her people send out of the State in a few years for the education of their children a sum of money more than sufficient to make the endowment which would be necessary to draw large numbers of the youths of other States to our University to be educated. This would cause Georgia to receive the money of other States, for the education of their children, instead of paying her money to other States for the education of her own.

"That State is always the most wealthy, powerful, and respected in which knowledge is most generally diffused and learning in all its branches most liberally encouraged. We cannot doubt that England is indebted in a very great degree to her Universities of Oxford and Cambridge, and to the influences which have gone out from them, for her ability to dictate laws to a large portion of the world and to draw wealth from every quarter of the globe. Nor can we deny that Massachusetts by her liberal course towards her Cambridge, and Connecticut by her liberality to Yale College, have greatly enlarged their wealth at home and increased their influence abroad; and have been able through the instrumentality of their Universities to instil into the youthful minds of the educated of all the other States of the Union many of their own peculiar notions of religion and government, while they have drawn millions of money from other States for the education of their

children. Georgia has contributed largely to build up Northern colleges, and has purchased from them, or those educated by them, most of her text and school books and much of her literature. Most of those Northern colleges, which have shared so largely the Southern patronage, are now hostile to Southern institutions. Notwithstanding all this they still get Georgia patronage, because it is believed they can furnish educational advantages superior to those offered by Georgia colleges. This might not now have been the case had the money sent out of Georgia by parents and guardians for education been expended at our own University. Is it not time we had learned wisdom by experience? We claim that ours is the Empire State of the South. Why then should we refuse to endow and build up our University where the sons of the South may enjoy educational advantages equal, if not superior, to those offered by New England colleges; where authors may be reared and literature and school books produced which will enlighten and elevate the minds of our youths without subjecting them to abolition taint or New England fanaticism?

"After mature deliberation upon this question, I feel it my duty to recommend the appropriation of five hundred thousand dollars, to be paid in five annual instalments, of one hundred thousand dollars each, for the endowment of our State University. This sum, added to the present endowment, would be sufficient to construct the buildings, purchase the library and apparatus, and endow the professorships, necessary to make it, in a few years, a first class University; and would further enable the trustees to pay such salaries as would command the services of the most distinguished professors in the country. This would at once give the University a commanding position in the Southern States, and relieve us from the necessity of further patronising Northern Colleges. I think the heart of every Georgian should swell with pride at the contemplation. And I do not doubt, when the question shall be fully discussed before our people, that they will be found to be in advance of most of our politicians upon this subject. He who does right will seldom have cause to fear the popular verdict.

"The aggregate *taxable* property of this State is supposed to be, this year, about \$700,000,000. The seventieth part of *one* per cent. upon this sum, will raise, annually, the \$100,000. This will be a fraction less than *one cent* and *a half*, per annum, on each one hundred dollars' worth of taxable property, or a fraction over *seven cents* on each one hundred dollars of taxable property, to be paid in *five annual instalments*.

"What Georgian is so destitute of State pride, apart from every consideration of patriotism and sense of duty, that he would refuse to pay this small sum to see our State University fully endowed, for all time to come, and put in a position of equality with any University in the Union? I think I know the great masses of the farmers and mechanics of our State, who are its very bone and sinew, and upon whom every other class of citizens is dependent for its support, well enough to say for them, in advance, that many of our public

men underrate their intelligence and liberality; and that not one in every twenty of them, who pays tax on one thousand dollars' worth of property, would hesitate a moment to contribute a *dime and a half a year, for five years*, for the purpose of building up a University which would place Georgia in the very front rank of all her Southern sisters, where the young men of the South who, in future, are to conduct its government, direct its energies and defend its honor, may be educated, without assisting by their patronage, to build up, elsewhere, institutions at war with our dearest rights. But it is not indispensably necessary that even the small additional tax above mentioned, should be collected from the people for this purpose. Each annual payment might be made out of the incomes of the Western & Atlantic Railroad, and the tax at present paid by the people of this State, be *reduced* within the five years; and we would still have money enough to meet promptly, in times of peace and prosperity, all the necessary expenses of the government.

"In return for this appropriation, the University should be required to educate and maintain, from year to year, such number of poor young men as the Legislature which makes the appropriation, may direct. I would suggest that the number be one from each county in the State; to be selected in such manner as the Legislature may prescribe. The young men selected as beneficiaries should be such only as have not the means to educate themselves, and whose parents are unable to defray the expenses of a collegiate education for them. Each should be required, when he enters the University, as a consideration for the instruction he is about to receive from the State, to sign a pledge of honor, that he will, if not providentially prevented, teach school, in Georgia, as many years next after he leaves the University as he was instructed in the University, or refund to the State the money expended in his education with lawful interest. The benefits of a collegiate education should not be confined to the sons of the wealthy; but the State should provide, as far as possible, for the education of moral young men who are talented and promising; and who, by reason of their poverty, are unable to educate themselves. From this class would rise up many of our most distinguished and useful citizens. Many of the brightest and most intelligent boys in Georgia are found among the poorest and humblest of her citizens. Inured to labor from their infancy, when the portals of the college are thrown open to them, they are not unfrequently found to outstrip the more favored students; and afterwards, when they come to enter the arena of active life, they are usually more energetic and more likely to become distinguished and useful than those whom necessity has never taught the value of personal exertion. Many of these young men would make teaching a profession for life, which few of the sons of the wealthy after graduating in college are willing to do.

"It is generally admitted by the most intelligent and best informed, that the establishment of a State University of a high character would work no detriment to the denominational, or other colleges of the State. The gradu-

ates of our other colleges, desirous of pursuing their studies beyond the college course, and of fitting themselves, by still higher attainments in learning, for the duties of authors, professors, etc., would transfer themselves to our own University without being under the necessity of leaving our own State to secure the necessary advantages. The building up of the University, upon the plan proposed, would also do much to advance our common school project, as it would send out in a few years a large number of young men as teachers, truly southern in sentiment and well qualified for the position. This would supply, in a great measure, what is now a lamentable deficiency, and would elevate and give new life and vigor to our whole educational system."

In the same message, the Governor recommended a normal school for the education of female teachers, upon the plan, "that the girls educated there divide among themselves and do in their turn all the cooking, washing, and other labor necessary to be done at the school. Each would be required to furnish her own clothes. The actual cost of maintaining each in the school would therefore be the prime cost of the provisions used by each, together with books, lights, and fuel. At this school, which should be located in some healthy portion of our State, large numbers of young females, whose parents are unable to educate them, might be prepared to teach our primary schools, or indeed to teach in any of our schools. While receiving their scholastic education at the normal school, these young ladies would also receive a domestic education, which would be of great utility to them in any position which they might occupy in after life."

In all the brilliant career of Governor Brown, there appears at this day to the writer nothing that invests his sagacity with the appearance of prophetic wisdom like this of educating women without elevating their tastes, habits, and dispositions above useful labor, and without lowering their physical capabilities below its demands. If his theory could then have been applied to

the education of both girls and boys, in all the South, we, as a people, should not only have been infinitely better prepared for the demands and prevention of war, while raging, but for the situation after emancipation, which summoned us to self-sustenance and self-dependence.

In his zealous advocacy of a common school system of education, and for the education of teachers he was only in advance, but in strict harmony, with his predecessor Governor Johnson, who, in his retiring message, urged the subject in strong terms upon the consideration of the Legislature, as well as the claims of the State University for the promotion of learning in the advanced sciences. He says, "we need a University proper. Such its founders designed our State college to be, and the constitution, as I have shown, has made it obligatory on the General Assembly to carry that design into effect."

* * * * *

He says, further quoting the Constitution :—

"What has been done to carry into effect this clause of your Constitution? How little? It has reference mainly to the State University, which had been chartered in 1875. Hence, it is obvious, that it is the *sworn* duty of the General Assembly to place our State University upon the footing contemplated by its wise and patriotic founders, or in other words, 'give it such donations and privileges as may be necessary to secure the objects of its institution.' Indeed, the whole subject of education is confided to the General Assembly, with the *positive injunction* to such action as may be proper to supply the wants of the State. That contracted policy which is ever standing at the door of the Treasury, with a flaming two-edged sword, is but little better than moral treason to the Constitution, which, for more than half a century, has been pleading for conformity on the part of those who swear to obey. Education is the friend of the State. It will elevate the people. It will diminish crime and the expense of executing the laws. It will raise out the poor from the mire into which innocent poverty has sunk them, and place them on an intellectual equality with the favored sons of fortune. It will dig from the mine many an unpolished gem to glitter in the crown of cultivated society. It will stimulate enterprise, and direct its energies to profitable objects. It will dignify labor, and open new channels for capital.

It will disinter the mineral wealth of the State, and add millions to the productions of agriculture. It will bring into the field of science an array of mind that will adorn our escutcheon, and dazzle the world by its achievements. In a word, Georgia must fail of her great mission without the adoption of a wise and comprehensive educational policy. Away, then, with that narrow stinginess which begrudges a dollar to such a cause, while it is often wasteful of thousands upon objects that possess little or no merit. Go forward boldly, firmly, liberally, to meet the wants of the State. Adjust your scheme to the character of our population. Apply to the task your wisest deliberations. Impart to it the element of self-vindication and self-support. Make it simple in its details, and dependent, for its success and growth, upon the voluntary support of the people."

He suggested a plan in pursuance of these views which the General Assembly did not adopt.

CHAPTER IV.

STATE GEOLOGIST AND CHEMIST.

After two years of executive experience, Governor Brown, whose vast and extensive perception and forecast seem to have extended to every possible method of promoting the material interest of the State, and development of her internal resources, brought this subject forcibly to the attention of the Legislature, and to the people of the State. In November, 1860, he renewed the appeal in the following strong terms. His plans in this, as in other vast interests, were defeated or delayed by the intervention of war.

"I also renew my recommendation of last year, for the appointment of a State geologist and chemist. Probably few of our citizens living in other sections of the State have formed a correct estimate of the immense value of the mineral region of Georgia. It is believed that the quantity of iron ore, of the very best quality, within her borders, is sufficient to supply the demand of all the Southern States, for that most important of all metals, for centuries to come. This ore is chiefly found in a very healthy section of the State, where there is abundant water power, of the finest character, and upon never failing streams. The great grain growing section of the State embraces these iron mines. Provisions may generally be had cheap. The coal fields of Georgia and Tennessee are in close proximity, and a railroad communication is already established between the two. Lime, charcoal, and every other material necessary in the manufacture of iron, may be had in great abundance near the mines. I think I may truly say, that no State in the Union possesses superior advantages for the manufacture of iron. If this interest were fully developed, it would add millions to the wealth of Georgia, and would tend greatly to increase her population. It would afford profitable employment to a large number of laboring men, retain large sums of money in the State, now sent out annually for the purchase of iron; and would make the State much more powerful and independent in her present or any future position she might be called upon to assume.

"There are also very extensive and valuable slate quarries in this mineral region. One of these, in Polk county, is already being developed and worked to advantage by its enterprising proprietors. I commend these valuable interests to the protecting care of the Legislature. Gold, silver, copper, lead, manganese, and other valuable minerals and metals, have also been found in different sections of our State. Much money has been wasted in the search after these metals by persons lacking the necessary information to guide their labors in the right direction. If the energies of practical men engaged in the search were directed by scientific knowledge of the subject, results would no doubt be produced the most interesting and valuable to the State. To this end, the importance of a thorough geological survey of the State, by a man of eminent ability, cannot be too highly estimated. The appropriation for this purpose, if made, should be sufficient to secure the services of a man of the highest character in the profession.

"To the duty of making a geological survey of the State should be added that of making a chemical analysis of the different qualities of soil in the different sections of the State; so as to afford the planters in each section necessary information as to the kinds of productions to the raising of which each kind of soil is best adapted, and the kind of manures best suited to each different quality of soil. This, it is believed, would be of great value to the planting interest. Certainly no class of our population has stronger claims upon the liberality and bounty of the Legislature; and none has been longer neglected. Every appropriation necessary to the advancement and encouragement of agriculture should be promptly and cheerfully made by the Legislature."

CODE OF GEORGIA.

Of all the vast progress of the State under Brown there is no step to compare in public utility with the codification of her common law of force, the principles of equity, the British and State statutes, and the penal code, with all the minute regulations of all the offices and departments of the government in one methodical and concise volume. It has reclaimed the laws to which the people are subject from the waste and rubbish of the multitudinous changes and from the vagaries and uncertainties of disjointed lumber scattered through acts and digests, elementary books and judicial reports, and placed before the people and the officers charged with public duties one of the clearest and most easily to be studied and understood

systems ever met with in judicial history. It places her civil on a par with her penal code, which is one of the most perfect because the most in harmony with human frailty, and the principles of man's rights to life, liberty, and property ever devised in any country.

The wisdom of the Governor is, however, only manifest in the forecast that urged the necessity of the work, and in the men selected for its execution, David Irwin, Richard H. Clark, and Thomas R. R. Cobb, to whom the code of Georgia is a monument that ages will brighten and burnish, instead of corroding and mouldering.

THE CHRISTIAN SABBATH.

The moral and religious tone of the State government under Governor Brown is, to the Christian philosopher who has witnessed the depravity in high places which has been so prevalent in late years, one of the truly gratifying features of her history. At an early period of life he had adopted a sound code of morals for his own government and practices in strict accord with the code. His face had been set and his energies directed against all crimes of moral turpitude—everything that was dishonest.

These principles of moral and legal conduct he carried with full vigor and energy into the public administration as a judge, and adhered to them, without faltering, against all public clamor or private abuse and criticism. It was not in the nature of his moral constitution to be overawed or intimidated or driven from his convictions of right and wrong by any power or influence whatever; and when inducted into the chief magistracy of the State he felt summoned by the higher and more weighty responsibilities of the position to exercise them in every department of the service.

The General Assembly, as early as 1859, acting under

his advice for the protection of the public morals, and to prevent the desecration of the Sabbath by the general preparation for elections on Monday, changed the general election day to Wednesday.

At the session of 1860, the Governor took the following bold position which, however, he could not adhere to because the demands of a war of invasion made it wholly impracticable :—

“The step taken at the last session for the protection of the Sabbath against desecration is highly commendable and praiseworthy. Another still more important remains to be taken. The railroad companies of this State are in the habit of running their regular passenger trains on the Sabbath day. This is generally excused on the supposed necessity of carrying the mails on that day. I do not think the excuse is a sufficient one, nor do I think any great public necessity requires that mail service should be performed on the Sabbath day. The mail facilities which we enjoy on the other days of the week are much greater than they were a few years since, and are, in my opinion, quite sufficient for all the actual necessities of the country. I have permitted the mail trains to run on the State road, on the Sabbath day, in conformity to the general usage of the railroad companies of this State, and in obedience to the requirements of a contract with the post-office department which was made prior to my term in office, and which continued in existence the greater portion of the time since I have been charged with the management of the road. The practice of running trains on the Sabbath should, in my opinion, be prohibited by law. If it is wrong for the government of the State to permit the trains to run on the State road on that day, it is equally wrong to allow them to run on any company road in the State. The General Assembly have full power to prevent this practice in the future. I therefore recommend the enactment of a law subjecting the superintendent of each and every railroad in this State to indictment for misdemeanor, in the superior court of the county in which the offence is committed; and on conviction to fine or imprisonment, or both, at the discretion of the court, for each and every engine, or train, which shall, with his knowledge or consent, be permitted to run upon the road under his control, on the Sabbath day. ‘Remember the Sabbath day to keep it holy,’ is addressed alike to the legislator and to the private citizen.”

RETRENCHMENT AND ECONOMY.

These were the ruling tenets of the civil administration of Governor Brown, adhered to with a moral courage

that, in the face of the then potent opposition and often biting criticisms by political foes, and not unfrequently by men he displeased in his own party, rose to the height of sublimity, and heroic firmness.

Not a leak at which unlawful drainage from the public treasury had been tolerated, no matter how respectable the beneficiaries, or honored the custom by age and use, could escape his sleepless ken, or his bold efforts to stop and suppress. And many things that tended to a waste of the public money that were authorized by law were assailed, and reform demanded of the Legislature; even to the reduction of the members and officers of that large and unwieldy body. In this direction he was hide-bound and impervious to sympathy, charity, love, affection, or any other method of approach to the public Treasury.

In the opposite direction of using the public money and credit to aid and advance all and every enterprise or method of benefit and improvement to the State and people, which after mature and critical examination met the approval of his judgment, he was liberal, not to say profuse.

MILITARY ADMINISTRATION OF GOVERNOR BROWN.

This extends over a period of several years of peace prior to the revolt of the Confederate States, and through the four years of war that ensued.

When he was first inaugurated, like his predecessors he was by the Constitution of the State invested with the power of Commander-in-chief of the army and navy without anything that bore the resemblance or name of either to command in any emergency that might have arisen, or that he could call into action for the protection of the State against invasion from without or disorder within.

He was also by authority of the Constitution Commander-in-chief of the Militia of the State which was in a state of non-user and general neglect, without any pretended organization, officers, means of instruction in drill and tactics, or the duties of a soldier in service, and therefore wholly inefficient if not useless in case any occasion should have arisen that required the Governor to call the citizen soldiers to protect the State, preserve public order, or to execute the public laws. The State almost literally had no division, brigade, regimental battalion, or company officers, and no rolls of men liable to do military duty. Public drills and musters vaguely remembered as the subject of ridicule, and barren of good results as to military order and instruction, had in almost every part of the State been wholly discontinued, and nothing had been introduced to supply the want, leaving the Commander-in-chief without a force to protect the State except the civil officers and the posse comitatus, which in many places were not reliable for even local emergencies had they arisen.

The great State of Georgia was virtually dependent, not on any power the Governor could have wielded, or any organized force for self-protection, but was dependent on the chances of continued peace and order without force; or upon the prompt voluntary action of her people for her protection and defence through the few amateur volunteer companies in the towns and cities.

Finding the State in this condition, and looking forward to the possibility of things that were precipitated soon after, he began to press upon the people of the State, through the Legislature, the importance of reforms and changes in the militia system, and the preparation of the citizen soldiery for the public service. Into this, as

many other reforms and proposed changes, he carried his zeal and energy, guided by his usual forecast and sagacity. The magic influence was felt throughout the State as the early culminating dangers began to be seen in the distance ; and the grand result was, that Georgia sent early to the field of carnage, when war had been inaugurated, an excess in number according to white population over all the States, north and south ; and the annals of battle and marches, and of suffering and heroic endurance, place her troops in the front rank among her sister confederates from the beginning to the end of the strife.

He pressed the importance of the State's military school at Marietta, and urged its re-organization and such public appropriations as were needed to make it a success, and enlarge its usefulness in training the young men of the country to arms.

He also urged the Legislature to change the militia laws, and to put the State in a situation to protect herself, in the following strong terms :—

“ For the purpose of giving new life and energy to our military system which is now almost entirely neglected, the importance of affording to a portion of the youth of our State a thorough military education cannot be too highly appreciated. The people of many of the States of this Union are falling behind most of the civilized nations of the earth in military training. Within the last twenty years the more powerful nations of Europe have probably advanced more in military science and skill, and in all the arts of war, than they had during any previous century. It is believed that no one will doubt the correctness of this remark who has observed attentively the late struggles between the contending powers in the Crimea and in Italy.

“ There is not a more brave and patriotic people on earth than those of the United States ; and there is probably no nation whose militia is so reliable on the field of battle ; yet in this day of constant advancement in military science, those who depend alone upon patriotism and valor enter the field, even in their own defence, under great disadvantage. Should our country be invaded by any of the great powers of the other hemisphere, our people would be found at the commencement of the struggle to be almost destitute of military training. Until this deficiency could be supplied, they might be

unable to contend with the disciplined troops of a regular army without great loss of life and much detriment to our national character.

"There is probably no State in the Union, certainly not one of the old thirteen, in which military training is more neglected than in our own. We know not how soon we may be brought to the practical test of defending ourselves against the assaults of foreign ambition, or the more unnatural attacks of those who ought to be our brethren, but whose fanaticism is prompting them to a course which is daily weakening the ties that bind us together as one people. The father of his country has admonished us to prepare for war in time of peace. If we would profit by his advice it is necessary that we reorganize our military system. I do not hesitate to say, that the State should offer every reasonable inducement for the organization and training of volunteer military corps, as the best and most efficient mode of reviving the military spirit among our people. This cannot be done until she has made provision for arming such companies. At present, the only provision for this purpose is the distribution of the small quota of arms which the State receives annually from the General Government, and which is wholly inadequate to the demand. The consequence is, that many of our volunteer companies are without arms, while many others would be organized were it known that they could be supplied with suitable arms.

"Frequent applications are made to this department for arms with a view to the organization of new volunteer companies; and when those who apply are informed that they cannot be supplied, all further attempts to organize such companies are abandoned.

"For the purpose of encouraging the organization of volunteer corps, I recommend that all laws now in force requiring the performance of military service other than that performed by volunteer corps be suspended, except in case of insurrection or invasion; and that a commutation tax be assessed and collected from each person of twenty-one years of age, or upwards, who is subject to do military duty in the State, and who is not a member of an organized volunteer corps which drilled at least once a month throughout the year preceding the collection of the tax. This tax should be large enough to raise a sum sufficient to arm the entire volunteer force of the State with the latest and most approved style of arms. As soon as a sufficient sum shall be collected in this way, I recommend, as a means of procuring the contemplated arms, that it be expended in the erection at some suitable location in the State of a State foundry for the manufacture of arms and other munitions of war. This would make the State much more independent in case of emergency. The God of nature has supplied us, in rich profusion, with all the materials necessary to the accomplishment of this purpose.

"If ample provision were made for arming our volunteers, they would exhibit much military pride; and the young gentlemen educated at our State military institute would, in all probability, be elected to the command of

many of the companies, who would bring into practical operation, in training our militia, the science and skill which they have acquired at the institute. In case of war, we could then bring into the field a large force of well-trained volunteers, commanded by officers of thorough military education, who would, in almost every case, be natives of our soil. Our untrained militia, if called into the field, with such a force and such officers at their head, would at once become infused with the military spirit, and soon with much of the military skill, of the volunteers, and would constitute with them an invincible army."

Again he says, in urging the claims of the military institute, and his plans for its success:—

"It would not only put the institute upon a solid basis, and add largely to the number of educated persons in our State, affording a collegiate education to many of the poorest, though brightest and most intellectual boys in Georgia, but would diffuse a knowledge of military science among the people of every county in the State; which all must admit, in these perilous times, is a *desideratum* second in importance to no other.

"We should not only arm our people, but we should educate them in the use of arms, and the whole science of war. We know not how soon we may be driven to the necessity of defending our rights and our honor, by military force. Let us encourage the development of the rising military genius of our State; and guide, by the lights of military science, the energies of that patriotic valor which nerves the stout heart and strong arm of many a young hero in our midst who is yet unknown to fame."

Following these vigorous and bold enunciations in his general message of November, 1860, he urged the erection of a foundry for the manufacture of arms and other munitions of war, and an arsenal for the arms of the State.

The bold and dauntless spirit of the Governor, who had the unrestricted confidence of the masses of the people, produced a revolution in the public mind, not only of opinion, but sentiment and feeling, upon the matter of the public preparation for defence, and the prompt use of the citizen soldiery of the State, not only with reference to the then possibility of a conflict with the Northern people, but to the public defence from foreign assaults, as well as internal disorder.

The people began to wake up from the many years of stupor and carelessness and inactivity in military matters. They knew with certainty that they had the blood of brave ancestry in their veins ; that they individually were endowed with dauntless courage that prepared them for the imminent deadly breach, and for any feats of daring to which the public duty or private demands of personal honor might summon them.

But they realized an almost total want of the knowledge of arms and of war, in any organized method of their use, as well as of discipline and drill in camp and field. Men of individual courage, but strangers to the magic power and effect of discipline, drill, and the harmonious movements of large bodies of men in uniform. Skilled in the single use of the rifle, they knew not its potency by the regiment and corps, under simultaneous obedience to orders.

The patriotic spirit of the Governor was caught by the people, and reflected by their representatives in the Legislature. And large numbers of volunteer companies were organized in the towns and cities, and incorporated by law, with liberal provision for arms at the expense of the State.

In the course of his three years of administration prior to the election of Abraham Lincoln, which was followed by prompt action on the part of several slaveholding States to secede from the Union, the Governor of Georgia had rapidly advanced from the position of a young and inexperienced mountaineer to that of a front and controlling rank among Southern governors and statesmen. In this position he combined the rare qualities that had enabled him to leap to it so soon: superior ability, sleepless energy, unequalled forecast, boldness, full confidence

in the great results, patriotic devotion to his section and State and ardent love of her people, ambition for fame to be achieved by faithful and beneficial public service, and the esteem and admiration of the people towards him. Under his lead, it was natural for his State to hold an important and controlling influence over the course of the Southern people in the then approaching crisis of their relations with the Federal government, and States of the North. The communications of her Governor, in connection with the published opinions of her leading statesmen holding office at Washington, were read and accepted in this State, and in every part of the South by men not disposed to submit to Northern aggression. And they exercised a vast and rapid influence in preparing the public mind for, and raising the public temper to the point of, armed resistance and organized preparations for the public safety.

On the assembling of the Legislature, when the result of the presidential contest was not reached, the Governor transmitted the invitation of South Carolina to all the Southern States to meet in convention to "concert measures for united action," which had been accepted by the States of Mississippi and Alabama, and declined by Virginia, Tennessee, Kentucky, and Texas. He advised against this movement because so few States would be represented in it, and therefore but little good could be expected to result from it.

In the same special message he used the following pointed language :—

"If it is ascertained that the Black Republicans have triumphed over us, I recommend the call of a Convention of the people of the State at an early day; and I will cordially unite with the General Assembly in any action, which, in their judgment, may be necessary to the protection of the rights and the preservation of the liberties of the people of Georgia against the

further aggressions of an enemy, which, when flushed with victory, will be insolent in the hour of triumph.

"For the purpose of putting this State in a defensive condition as fast as possible, and preparing for an emergency which must be met sooner or later, I recommend that the sum of one million of dollars be immediately appropriated as a military fund for the ensuing year; and that prompt provision be made for raising such portion of the money as may not be in Treasury as fast as the public necessities may require its expenditure. 'Millions for defence, but not a cent for tribute,' should be the future motto of the Southern States.

"To every demand for further concession, or compromise of our rights, we should reply, 'The argument is exhausted,' and we now 'stand by our arms.'"

This message was sent to them on November 7th, and on the 16th the Governor approved a bill appropriating \$1,000,000 as a military fund for the year 1861, "for the protection of the rights and preservation of the liberties of the people of Georgia," "to be expended by the Governor in such manner as he may deem best for the purpose of placing the State in a condition of defence," etc.

In this special message on federal relations prepared pending the presidential contest, he presented the subject of the violation of constitutional obligations by several of the Northern States by the passage of severe laws against reclamation of fugitive slaves, as required by the Constitution of the United States, and provided for by Act of Congress, and argued the matter with great ability and at length; and recommended retaliatory legislation on the part of this State. But the election of Mr. Lincoln transpired; and the General Assembly adopted the plan of calling a State convention, and providing for military defence as recommended in that contingency.

CHAPTER V.

SECESSION OF COTTON-GROWING STATES, AND ORGANIZATION OF THE CONFEDERACY.

The seventh day of November, A. D., 1860, the national election day, to which the people of the United States, divided in interest and consequently in opinion and feeling, looked anxiously, had dawned upon us. Its sun had risen with bright beams of hope and promise to the infatuated and aggressive majority section. But a deep gloom and oppressive foreboding had settled on the great popular heart in the South. Conscious of numerical weakness, as the North was of strength, the bitter cup seemed about to be presented to the unwilling lips of the Southern people ; to drink which portended political death ; to refuse and repel it was to change the strife from the forum to the tented field of war ; from the hitherto peaceful and harmless play of the ballot to that of the direful bayonet and bullet ; to replace the eloquence of the hustings and legislative hall by the tread of armed legions, and the hoarse music of artillery and muskets. Two great peoples, long bound together by common ties of mutual interest and protection, still held together by the tenure of law and organized government, had grown into immense sectional factions, and feeling themselves separate and distinct, in interest, in aims, and destiny, were about to argue with each other, with lead instead of logic, the vexed problems the latter had failed to solve ; were about to reach a final analysis in the flow of the blood of broth-

ers. The love that had long warmed the national heart, and blended the once weak and dependent sections in a common and apparently indissoluble tie of friendship and union, was already in great part changed into hatred as intense as the human heart and mind can feel without special individual insult and injury.

The people of the South approached the polls of the election with a seriousness and earnestness becoming the great crisis which had been reached. Some believed that defeat in the election was a foregone conclusion; others trusted that an overruling Providence would give some direction to the raging storm which would be compatible with the safety and honor of our section and people, while many were credulous enough to believe that their respective candidates would be elected. But within a few hours after the balloting had ceased, the telegrams displaced all doubts, and broke to the Southern mind the awful truth—that Abraham Lincoln, the nominee and standard bearer of the great Northern Republican party, was, by a triumphant majority vote in the electoral college, the president elect of the United States.

The pause that ensued was awful but brief; the shock was overpowering and the effects visible upon all classes of our people. But the chilled blood which had returned to the heart, leaving paleness to the cheek and bringing tremor to the nerves, soon reacted under the smart of wounded honor, and resumed its course of circulation with double speed. Where lately sat a shadow of dread and gloom, now presented to every beholder a look of defiance. Where hesitation and doubt had given a sickly cast to every effort and action, now all was alive with fixed purpose and resolution.

The telegrams which announced to the South the tri-

umph of the Republicans were almost instantaneously responded to by the announcement that the legislative councils of the States of the South, in session, were calling the people together in State conventions to consider the mode and measure of their safety. And the Executives of those States whose Legislatures were not in session were calling them to assemble for the same purpose. There was an earnestness patent upon the face of the bulletins of that time which could not fail to impress the victors of the ballot-box that their triumph was not complete; and that a great barrier to their aims was soon to be set up in the form of a concentration on the part of the cotton States of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas to withdraw from the Union and organize a separate government; and a strong probability that the mother of States and statesmen, the cradle and grave of heroes, old Virginia, would ally herself with her Southern sisters; and that North Carolina, Tennessee, and Arkansas would follow; with a reasonable probability that Kentucky, Missouri, and Maryland would sooner or later cast their fortunes with us. The time to intervene between the election of Mr. Lincoln, the 7th of November, and the 4th of March when he was to be installed into office and invested with the executive authority of the government, was not quite four months. Hence the time given by the State Legislatures for popular deliberations was short, they being impressed with the belief that prompt and immediate decision was necessary in the then emergency of the country.

We have already sketched the reasons and considerations moving the people to action, in which, seemingly by a general consent, the lead was awarded to South Caro-

lina. Her sterling purpose for many years past to resist the encroachments of Federal authority, and the prominence which her debates had given her, and the general confidence in the sincerity of her statesmen, and the virtue and fidelity of her people, seem to have awarded to that State the front rank in the movement of secession. Her ordinance of secession was adopted on the 20th of December, A. D., 1860 ; that of Mississippi on the 9th, and Alabama and Florida on the 11th, Georgia on the 19th, Louisiana on the 26th of January, A. D., 1861, and that of Texas on the first day of February.

The aggregate vote of the people against the candidates who were in favor of immediate and separate State action, as well as the vote of delegates in some of the State conventions, was large. The actions of the conventions were generally made unanimous, or nearly so, after a test vote had been taken and the decision of the respective States for secession clearly ascertained. By which course the dissenting delegates gave in their adhesion to the will of the majority, and avowed their purpose to adhere to and defend the States to which they respectively belonged. In which example they were generally followed by the dissenting people at home. The mode adopted by the several seceding States to give effect to the purpose of secession was to pass in their several conventions an ordinance repealing the ordinance by which they became attached to the Federal Union. To illustrate this form of proceeding we annex here a copy of the ordinance passed by the Georgia convention :—

AN ORDINANCE

TO DISSOLVE THE UNION BETWEEN THE STATE OF GEORGIA AND OTHER STATES UNITED WITH HER UNDER A COMPACT OF GOVERNMENT ENTITLED "THE CONSTITUTION OF THE UNITED STATES OF AMERICA."

We, the people of the State of Georgia, in convention assembled, do declare and ordain, and it is hereby declared and ordained,

That the ordinance adopted by the people of the State of Georgia in convention, on the second day of January, in the year of our Lord seventeen hundred and eighty-eight, whereby the Constitution of the United States of America was assented to, ratified, and adopted; and also all acts and parts of acts of the General Assembly of this State ratifying and adopting amendments of the said Constitution, are hereby repealed, rescinded, and abrogated.

We do farther declare and ordain, That the Union now subsisting between the State of Georgia and other States, under the name of the "United States of America," is hereby dissolved, and that the State of Georgia is in the full possession and exercise of all those rights of sovereignty which belong and appertain to a free and independent State.

On the motion of Judge Nesbit, the author of the ordinance, it was engrossed on parchment, signed by the delegates, and deposited in the archives of the State. The following is a list of the convention, those voting against the ordinance marked with a * the balance voting for it. The vote stood 208 to 89.

Appling—Seaborn Hall, J. H. Latimer.

Banks—*W. R. Bell, S. W. Pruett.

Baker—A. H. Colquitt, C. D. Hammond.

Baldwin—*A. H. Kenan, L. H. Briscoe.

Berrien—*W. J. Mabry, J. C. Lamb.

Bibb—Washington Poe, John B. Lamar, E. A. Nisbet.

Brooks—C. S. Gaulden, Henry Briggs.

Bryan—C. C. Slater, J. P. Hines.

Bulloch—S. L. Moore, Samuel Harville.

Burke—E. A. Allen, E. B. Gresham, W. B. Jones.

Butts—D. J. Bailey, Henry Hendricks.

Camden—N. J. Patterson, F. M. Adams.

Campbell—J. M. Cantrell, T. C. Glover.

Calhoun—W. G. Sheffield, E. Padgett.

Carroll—B. W. Wright, B. W. Hargrave, Allen Rowe.

Cass—*W. T. Wofford, *H. F. Price, *T. H. Trippe.

Catoosa—*Presley Yates, J. T. McConnell.

- Charlton*—*F. M. Smith, H. M. Mershon.
Chatham—F. S. Bartow, A. S. Jones, John W. Anderson.
Chattooga—*Wesley Shropshire, *L. Williams.
Cherokee—W. A. Teasley, E. E. Fields, John McConnell.
Clark—T. R. R. Cobb, Asbury Hull, Jefferson Jennings.
Clayton—*R. E. Morrow, James F. Johnston.
Clay—W. H. C. Davenport, B. F. Burnett.
Clinch—Benjamin Sermons, F. G. Ramsey.
Cobb—G. D. Rice, A. A. Winn, E. H. Lindley.
Coffee—*Rowan Pafford, *J. H. Frier.
Columbia—W. A. S. Collins, H. R. Casey, R. S. Neal.
Colquitt—H. C. Tucker, John G. Coleman.
Coweta—A. B. Calhoun, J. J. Pinson, W. B. Shell.
Crawford—W. C. Cleveland, Isaac Dennis.
Dade—*S. C. Hale, *R. M. Parris.
Dawson—*Alfred Webb, *R. H. Pierce.
Decatur—Richard Simms, C. J. Munnerlyn, B. H. Gee.
De Kalb—Charles Murphy, *G. K. Smith.
Dooly—John S. Thomas, Elijah Butts.
Dougherty—Richard H. Clark, C. E. Mallary.
Early—R. W. Sheffield, James Buchanan.
Echols—Harris Tomlinson, J. B. Prescott.
Effingham—E. W. Solomons, A. G. Porter.
Elbert—J. C. Burch, L. H. O. Martin.
Emanuel—*A. L. Kirkland, *John Overstreet.
Fannin—*W. C. Fain, E. W. Chastain.
Fayette—M. M. Tidwell, J. L. Blalock.
Floyd—James Ward, Simpson Fouche, F. C. Shropshire.
Forsyth—Hardy Strickland, *H. P. Bell.
Franklin—*John H. Patrick, *Samuel Knox.
Fulton—J. P. Alexander, L. J. Glenn, J. P. Logan.
Glasscock—Joshua F. Usry, Calvin Logue.
Gilmer—*Joseph Pickett, *W. P. Milton.
Gordon—W. H. Dabney, *James Freeman, R. M. Young.
Greene—N. M. Crawford, R. J. Willis, T. N. Poullain.
Gwinnett—*R. D. Winn, *J. P. Simmons, *T. P. Hudson.
Habersham—R. C. Ketchum, Singleton Sisk.
Hall—*E. M. Johnson, *P. M. Byrd, *Davis Wheelchel.
Hancock—Linton Stephens, B. T. Harris, T. M. Turner.
Haralson—W. J. Head, B. R. Walton.
Harris—D. P. Hill, W. J. Hudson, H. D. Williams.
Hart—R. S. Hill, J. E. Skelton.
Heard—*R. P. Wood, *C. W. Mabry.
Henry—*F. E. Manson, *E. B. Arnold, J. H. Low.

176 SECESSION OF COTTON-GROWING STATES.

Houston—J. M. Giles, D. F. Gunn, B. W. Brown.
Irwin—M. Henderson, *Jacob Young.
Jackson—J. J. McCulloch, J. G. Pitman, D. R. Lyle.
Jasper—*Aris Newton, *Reuben Jordan, Jr.
Jefferson—*H. V. Johnson, *George Stapleton.
Johnson—*William Hust, *J. R. Smith.
Jones—James M. Gray, P. T. Pitts.
Laurens—Nathan Tucker, J. W. Yopp.
Lee—W. B. Richardson, Goode Bryan.
Liberty—W. B. Fleming, S. M. Varnadoe.
Lowndes—C. H. M. Howell, Isaiah Tilman.
Lumpkin—*Benjamin Hamilton, *William Martin.
Madison—J. S. Gholston, A. C. Daniel.
Macon—W. H. Robinson, J. H. Carson.
Marion—W. M. Brown, J. M. Harvey.
McIntosh—J. M. Harris, G. W. M. Williams.
Meriwether—H. R. Harris, W. D. Martin, *Hiram Warner.
Miller—W. J. Cheshier, C. L. Whitehead.
Milton—*Jackson Graham, *J. C. Street.
Mitchell—William T. Cox, Jesse Reed.
Monroe—R. L. Roddey, *Hiram Phinizy, Jr., J. T. Stephens.
Montgomery—*T. M. McRhae, *S. H. Latimer.
Morgan—Thomas P. Saffold, Augustus Reese.
Murray—*Anderson Farnsworth, *Euclid Waterhouse.
Muscogee—J. N. Ramsey, Henry L. Benning, A. S. Rutherford.
Newton—W. S. Montgomery, Alexander Means, *Purmedus Reynolds.
Oglethorpe—D. D. Johnson, Samuel Glenn, *Willis Willingham.
Paulding—Henry Lester, J. Y. Algood.
Pickens—*James Simmons, *W. T. Day.
Pierce—E. D. Hendry, J. W. Stevens.
Pike—R. B. Gardener, G. M. McDowell.
Polk—W. E. West, *T. W. Dupree.
Pulaski—T. J. McGriff, C. M. Bozeman.
Putnam—*R. T. Davis, D. R. Adams.
Quitman—E. C. Ellington, L. P. Dozier.
Rabun—*Samuel Beck, *H. W. Cannon.
Randolph—Marcellus Douglas, Arthur Hood.
Richmond—George W. Crawford, J. Phinizy, Sr., J. P. Garvin.
Schley—H. L. French, W. A. Black.
Scriben—C. Humphries, J. L. Singleton.
Spaulding—W. G. Dewberry, Henry Moor.
Stewart—James A. Fort, James Hilliard, G. Y. Banks.
Sumter—W. A. Hawkins, T. M. Furlow, Henry Davenport.
Talbot—*W. R. Neal, W. B. Marshall, L. B. Smith.

Taliaferro—*Alexander H. Stephens, *S. H. Perkins.
Tatnall—*Benjamin Brewton, *Henry Strickland.
Taylor—*W. J. F. Mitchell, H. H. Long.
Telfair—*H. McLean, *James Williamson.
Terrell—*William Harrington, *D. A. Cochran.
Thomas—A. H. Hansell, S. B. Spencer, W. G. Ponder.
Towns—*John Corn, *Elijah Kimsey.
Troup—B. H. Hill, W. P. Beasley, J. E. Beall.
Twiggs—John Fitzpatrick, S. L. Richardson.
Union—*J. H. Huggins, *J. P. Welborn.
Upson—*P. W. Alexander, *T. S. Sherman.
Walker—*G. G. Gordon, *R. B. Dickerson, *T. A. Sharpe.
Walton—George Spence, *Willis Kilgore, H. D. McDaniel.
Ware—W. A. McDonald, C. W. Stiles.
Warren—M. D. Cody, N. A. Wicker.
Wayne—Henry Fort, H. A. Cannon.
Washington—E. S. Langmade, Lewis Bullard, A. C. Harris.
Webster—P. F. Brown, M. H. Bush.
White—Isaac Bowen, *E. F. Starr.
Whitfield—*J. M. Jackson, F. A. Thomas, *Dickerson Taliaferro.
Wilcox—D. A. McLeod, Smith Turner.
Wilkes—Robert Toombs, J. J. Robertson.
Wilkinson—*N. A. Carswell, *R. J. Cochran.
Worth—R. G. Ford, Sr., T. T. Moulger.

Before the introduction of the ordinance a test vote was had upon a simple resolution offered by Judge Nesbit, in these words:—

Resolved. That in the opinion of this Convention, it is the right and duty of Georgia to secede from the present Union, and to co-operate with such of the other States as have or shall do the same, for the purpose of forming a Southern Confederacy upon the basis of the Constitution of the United States.

The vote on this was the test of the question of immediate secession and stood 166 to 130. Forty-one members, after the main question had been thus decided, left the eighty-nine, voting with the majority. They were Messrs. Adams, Beasley, Black, Bowen, Briscoe, Brown of Marion, Brown of Webster, Bullard, Bush, Casey, Cody, Collins, Crawford of Green, French, Haines, Harris

of Hancock, Henderson, Hill of Harris, Hill of Troup, Hudson of Harris, Johnson of Clayton, Ketchum, Lamar of Lincoln, Langmade, Low, Long, McDaniel, Means, Mershon, Neal of Columbia, Saffold, Sisk, Smith of Talbot, Spence, Stephens of Monroe, Teasley, Thomas of Whitfield, Tucker of Hancock, Wicker, Williams of Harris, and Yopp.

OCCUPATION OF FORT PULASKI.

The two channels of Savannah river at its mouth are commanded by Fort Pulaski, on Cockspur, a low, marshy island a half mile wide, situated at the head of Tybee roads. It is a five sides work, of seven and a half feet walls twenty-five feet above water, surrounded by a forty-eight feet wet ditch. The fort is capable of mounting one hundred and forty guns. It had only twenty thirty-two pound guns, with limited supply of ammunition and stores, and without a military force, being in charge of an ordnance sergeant and his assistants.

It was manifest that the policy of the United States was coercion by armed forces in case the secession movement should be carried into effect, and the States seceding disregard the authority of the general government, and that the arms and fortifications of the government would be placed in condition to be promptly used for that purpose. The occupation of this fort, by the State, was regarded by Governor Brown, and all the leading men of the State, as of the first importance in the event of an attempt to invade and subjugate it. It was also regarded as scarcely less important that it should be done promptly, while there were no forces there to resist, and the taking of it would be unattended with violence and bloodshed, and consequent popular exasperation North and South.

While secession was the fixed purpose, it was only first in magnitude and importance to the preservation of peace between the sections, if indeed such were possible and practical, and, whatever doubt any may have then entertained, the prudence and wisdom of this, by some called rashness and folly, were soon after fully verified by transpiring events.

Governor Brown, who had established headquarters at the city of Savannah in order to act promptly in any emergency as commander-in-chief, on the second day of January, 1861, issued to Colonel Alexander R. Lawton commanding 1st regiment Georgia volunteers, an order reciting, among other things:—

“In view of the fact that the government at Washington has, as we are informed upon high authority, decided on the policy of coercing a seceding State back into the Union, and it is believed now has a movement on foot to reinforce Fort Sumter at Charleston, and to occupy with Federal troops the Southern forts, including Fort Pulaski in this State, which if done will give the Federal government in any contest great advantages over the people in this State, to the end therefore that this stronghold, which commands also the entrance into Georgia, may not be occupied by any hostile force until the convention of the State of Georgia, which is to meet on the 16th instant, has decided on the policy which Georgia will adopt in this emergency, you are ordered to take possession of Fort Pulaski, as by public order herewith, and to hold it against all persons, to be abandoned only under orders from me, or under compulsion by an overpowering hostile force.”

On the morning of the third of January, Colonel Lawton, in obedience to the Governor's order, embarked on board a steamer at Savannah, in command of detachments from the Chatham artillery, Captain Cleghorn; the Savannah volunteer guards, Captain Screven; and Oglethorpe light infantry, Captain Bartow; numbering one hundred and twenty-five men and officers; and at noon of that day took formal possession of the fort in the name of the State of Georgia, and without encountering any re-

sistance. Her flag was raised and saluted above the battlements of the fort, where it continued to float over her troops until they were transferred to the Confederacy, with the command of the fort; and was lowered to give place to that of the newly formed government.

This independent and prompt action by the Executive was sanctioned by the secession convention on the 18th of the same month, by the following resolution:—

“That this convention highly approves the energetic and patriotic conduct of Governor Brown in taking possession of Fort Pulaski by Georgia troops, and requests him to hold possession until the relations of Georgia with the Federal government be determined by this convention.”

TWO STATE REGIMENTS ANTERIOR TO THE CONFEDERACY.

The convention after adopting the secession ordinance with the view to provide for the defence of the State by ordinance authorized the Governor to raise and equip a military force not to exceed two regiments of infantry, or infantry and artillery in such proportion as he should direct. He proceeded to raise and equip one regiment of regulars, under the command of Colonel Charles J. Williams, and a regiment of volunteers under the command of Colonel Paul J. Semmes. He had continued, after taking possession, to hold the fort and garrison the river approaches to Savannah, and to project and carry forward such improvements as he was able to do by the aid of slave-laborers tendered by planters, and by the troops under his command, mainly the volunteer companies of Savannah, up to the time, in April following, when the first regiment of regulars was distributed at Savannah, Fort Jackson, on the river, Fort Pulaski, and on Tybee Island. These regiments by ordinance of the Convention had been transferred to the Confederate Governor, and

early in the summer of 1861 were sent to the Virginia front.

TRANSFER TO CONFEDERACY.

By ordinances of the convention of March 20, all the military operations in the State having reference to or questions between this State or any of the Confederate States of America and powers foreign to them, and the arms and munitions of war acquired from the United States with the forts and arsenals, and which were then in the said forts and arsenals, were transferred to the Confederate States; and that government was authorized to occupy, use, and hold possession of all the forts, navy yards, arsenals, custom houses, and other public sites and their appurtenances within the limits of this State, and lately in possession of the United States of America; and to repair, rebuild, and control the same at its discretion, until said ordinance be repealed by a convention of the people of Georgia.

EXERCISE OF SEPARATE STATE SOVEREIGNTY.

After the passage of the ordinance of secession by the several conventions composed of delegates representing the people of the seceding States respectively, the Executives thereof prior to the formation of a new union represented by common government acted upon the theory that each for the time intervening was a separate and distinct sovereign power, having withdrawn all delegated powers and rehabilitated themselves with all the attributes of sovereignty as if each had been a free and independent nation. This was in full accord with the doctrine and theory of State rights as understood by the great and gifted leaders of Southern opinion, and consequently the Governors of seceded States were well upheld and sus-

tained by the judgment and sympathy of statesmen and by the great volume of public virtue and intelligence.

In Georgia this was strikingly illustrated in several exciting instances. The government had at the arsenal at Augusta a company of United States troops under the command of Capt. Arnold Elzey, with the government flag waving over them on Georgia soil, a battery of cannon, twenty thousand stand of muskets, and large quantities of ammunition.

Governor Brown determined that this state of affairs was inconsistent with the sovereignty and independence of the State, and decided upon the seizure of the arsenal, arms, and military stores and holding them under the authority of Georgia. Hon. Henry R. Jackson who had been judge of the Savannah district in early life, commanded the regiment of Georgia volunteers in the Mexican war at a still earlier period, and was later a minister to the court of Austria under President Buchanan, and a life-long prominent Democratic leader in the State, enthused by the novel and threatening aspect of public affairs, became a member of the Governor's staff as aid-de-camp, as did General William Phillips. Attended by these and a small force the Governor in person demanded to occupy the arsenal, arms, and stores. Captain Elzey, a brave officer but not hostile in feeling to the South, at first refused under a sense of duty to the government; but at last and without violent collision yielded to the necessity which would have forced the surrender, in the conduct of which he was treated with all courtesy and consideration due to himself, his men, and the United States government.

About the time of the secession of this State there were shipments of arms being made from New York which attracted the attention of the authorities there.

Some of the arms were claimed and proven to be private property shipped for sale by merchants. But all the circumstances indicate that the authorities of this State were preparing for the emergency which in fact soon after arose. These arms were seized at New York under the authority of the police of the city, held adversely and against the authority and people of Georgia.

It was an occasion for and which summoned the prompt action of her Governor and commander-in-chief. He made his demand direct upon Governor Morgan of the State of New York for the release of the arms. The manner of the United States government had been most contemptuous toward the seceding States, and Governor Morgan at first so treated the Governor's demand for the arms; paying no attention and making no reply. In the course of a few days of this contemptuous silence, Governor Brown determined to enforce his demand by reprisal upon the property of citizens of New York in this State. There were several vessels at the port of Savannah, which, by order of the Governor, Colonel Henry R. Jackson promptly seized and held, under the military authority and in the custody of the State, until the restitution of the arms demanded by Governor Brown should be made by the Governor of New York, and which were forcibly held by the police of New York city. This led to a correspondence between the two Governors, which, after much cavil and some delay, resulted in conceding the demand on the part of Governor Morgan, the release and sending forward of the captured arms; and the final release of the New York vessels held under the Governor's order by Colonel Jackson in the river at Savannah.

The State convention, as a provisional measure of public safety, as elsewhere stated, authorized the Governor

to raise and equip two regiments, to act under his authority as commander-in-chief. The first, known through the war as the first regiment of Georgia regulars, was recruited and formed by individual enlistments, they being formed into companies and officered by his appointment. He was also authorized to purchase steamboats for the defence of the river approaches. These were placed under the command of Commodore Tatnall, a native of Georgia, who, having resigned his place in the United States navy, accepted service under Georgia by the appointment of her Governor.

These land and naval forces, weak and crude as they were compared with those of the United States government then being put in order and marshalled to subjugate the South, were all under the command of Henry R. Jackson, whom the Governor had appointed brigadier-general, who held the command until the organization of the Confederacy, and the transfer of the forces to the Confederate States of America.

ASSEMBLING OF THE PROVISIONAL CONGRESS.

The convention of the State of Alabama, having adopted a similar ordinance to those of South Carolina, Georgia, Mississippi, and Florida, invited the States by delegates, to a convention to be holden at the city of Montgomery on the 4th day of February, *proximo*, to which invitation they responded by the several conventions as they seceded.

In this State, they were elected by the convention in numbers corresponding with our members of Congress; two from the State at large, and one for each representative.

The result of which was that ROBERT TOOMBS, of the

county of Wilkes, and HOWELL COBB, of the county of Clarke, were duly elected for the State at large, and the following named persons for the several districts affixed to their names, to wit :

FRANCIS S. BARTOW, for the 1st Congressional District.			
MARTIN J. CRAWFORD,	"	2d	"
EUGENIUS A. NESBIT,	"	3d	"
BENJAMIN H. HILL,	"	4th	"
AUGUSTUS R. WRIGHT,	"	5th	"
THOMAS R. R. COBB,	"	6th	"
AUGUSTUS H. KENAN,	"	7th	"
ALEXANDER H. STEPHENS,	"	8th	"

In the mean time, the authorities of the seceding States took control of and held the United States arsenals, navy yards, forts, and all places and property of the government, within their respective limits, in opposition to the authorities of the United States ; Forts Sumter, in South Carolina, and Pickens, in Florida, having been timely garrisoned by United States troops, were still held by the Federal government against these States, and continued to be held in opposition to the new government when organized.

The State of South Carolina sent to Georgia, as a special commissionet, the Honorable James L. Orr, commissioned by his Excellency, Governor F. W. Pickens, who communicated to the Georgia convention on its first meeting, the 16th of January, the official action of South Carolina—her ordinance of secession adopted on the 20th of December, preceding.

Ex-Governor John Gill Shorter, commissioned by Governor A. B. Moore, represented Alabama, and communicated the action of that State and her secession ordinance

adopted in convention on the 11th of January, six days prior to the assembling of our convention; and also the invitation of that State to meet in convention at Montgomery, on the 4th of February.

The Honorable Thomas W. White, commissioned by Governor John Q. Pettus of Mississippi, represented that State, communicating to our convention the proceedings of that State, which had seceded on the 9th of January.

The State of Georgia, after following the States which had seceded, appointed Honorable D. C. Campbell a special commissioner to the State of Delaware, with a view to induce that State to join her slaveholding sisters.

In like manner, and for the same purpose, General John W. A. Sanford was commissioned to Texas; Honorable A. R. Wright, to Maryland; Honorable Samuel Hall was commissioned to his native State, North Carolina; Honorable Hiram P. Bell, to the State of Tennessee; Dr. W. C. Daniel, to the State of Kentucky; and Honorable W. J. Vason, to the State of Louisiana.

The State of South Carolina, after her secession, had made the fruitless attempt to settle by peaceful negotiations all matters of probable conflict and dispute to grow out of her separation and withdrawal from the Union, by sending commissioners to Washington charged with authority to do so. This mission, notwithstanding the high character of the gentlemen accredited, and the respectful manner in which they demeaned themselves toward the authorities of the government, failed to accomplish any of its objects; but tended to confirm the already well-grounded apprehension of the hostile aims of the United States toward the States preparing to withdraw.

As we have seen, no organized convention or co-operation of States existed prior to the separate action of each.

They recognized the legal power of the United States over the citizens so long as the States remained in the Union. But it was not by any State or any portion of the people anticipated that the sovereignty resumed by the seceding States would be continued to be separately exercised by any.

All eyes turned with solicitude therefore to the convention invited by Alabama at Montgomery.

That body was promptly organized by making Ex-Governor Howell Cobb, of Georgia, president. This gentleman had been Secretary of the Treasury under President Buchanan after serving his State as Governor, and in the House of Representatives in Congress. He was a popular Democratic leader from his youth, was a Union man in 1850; but became an ardent secessionist upon the election of Mr. Lincoln, and exerted the utmost of his powers and large influence over the public mind to bring about the separation. He had himself been often and highly spoken of for President of the United States. His ability, firmness and moderation, as well as his distinction and popularity, eminently fitted him for the delicate and responsible position.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.

The deliberations of this body were conducted in secret, and whatever differences in judgment and plans may have sprung up, they did not embarrass the people, who regarded it as a harmonious and eminently patriotic assembly; and were prepared in mind and heart to accept and promptly co-operate in its action.

The convention having assumed the title of Confederate States of America, proceeded to elect Hon. Jefferson Davis of the State of Mississippi provisional President,

and Hon. Alexander H. Stephens provisional Vice-President of the Confederate States.

These appointments were received and cordially approved by all classes of people. There were other able and competent leaders who would no doubt have accepted the position of president, and whose respective friends and admirers would have been more gratified for the time being to see honored than Mr. Davis; but to him no objection was publicly urged, if any existed.

His private life and character had ever been without reproach. He had given proof of his gallantry and ability in the field during the war between his country and the republic of Mexico. He had been long a member of Congress from Mississippi, discharged with ability and to the great satisfaction of the United States the duties of secretary of war during the administration of President Pierce; and had been an eminent leader of the Southern people upon the subject of State rights, and Southern rights, and the issues that had now divided the Union.

He united in himself in the opinion of his people in a rare degree the qualities of unsullied honor, devotion to the South, moral and physical courage, ability as a statesman and no ordinary military talents, with a firmness and integrity of purpose and strength of will seldom to be found, as well as energy and perseverance equal to the crisis. The opinions of many were much modified and changed as to some of the points above mentioned during the four years of severe trial that ensued; but in nothing that related to his honor, courage, firmness, patriotism, or devotion to the South and her people. But at the time of the publication of his appointment the effect was the very best upon the people generally, who believed that, all things considered, he was the best man

in the confederacy then formed for its presidency. Those who had favored the claims of other men soon settled down in the patriotic and satisfactory conviction that the convention had acted wisely in selecting him.

The appointment of Mr. Stephens vice-president, and his acceptance of the second place were equally gratifying to all the friends of the revolution. His clear head and honest heart, his great experience in public life, forecast, and practical wisdom, and unsullied private life and character had given him large influence over statesmen North and South, and upon the people of the South. He had been long the object of pride in his State, and of a warmth of admiration rarely felt for any public political leader. Up to the secession of Georgia he had been bitterly and firmly opposed to the movement, was a delegate from his county in the secession convention, where he spoke and voted against it, but, impelled by his loyalty to his State and his theory of State rights and sovereignty, so soon as she acted he ceased his opposition and joined the movement. His appointment by the Congress was commended, not only commended upon the ground that the public men and people esteemed him eminently fitted, but also upon the ground that it afforded additional proof of the good faith of the secession party and promoted the best of feelings and cordial relations between them and those who had opposed secession. All the people had reason to realize that the conflicts between them were ended, and the antagonisms engendered by them buried with the past, and were replaced by fraternity, and united and harmonious and earnest counsels looking to the success of the cause and the good of the people.

The convention proceeded with great dispatch to frame a provisional constitution, and to organize the depart-

ments of government. On the 11th day of March the provisional Congress, composed of the delegates, assembled as a convention, adopted a permanent Constitution,* and proposed the same for ratification to the several State conventions represented in that Congress, which was by each promptly ratified and thus became the organic law of the Confederate States of America.

CONSTITUTIONAL CHANGES.

The new government is founded upon the model of the old, being identical in the leading characteristics—the executive, legislative and judicial branches.

The general enumeration of delegated and reserved powers, in the main, are copied from the old constitution with only a few modifications and express restrictions.

The preamble contains the significant clause not in the old constitution: “each State acting in its sovereign and independent character;” and also the clause: “invoking the favor and guidance of Almighty God.” The Confederate Constitution provides that no person of foreign birth, not a citizen of the Confederate States, shall vote for any officer, State, or Federal; and provides that army officers of the general government, residing and acting solely within any State, may be impeached by the Legislature thereof. That no bounties shall be granted from the public treasury, nor duties laid upon importations from foreign countries to foster any branch of industry; and that duties, imposts, and excises shall be uniform throughout

* The provisional Constitution being only temporary, and the permanent Constitution having been overthrown by the armed power of the United States, the copies of those instruments inserted in this chapter written in 1861 are here omitted, retaining the notes of difference between the Constitution of the United States and that of the Confederate States.

the Confederate States ; denies to Congress the power to appropriate money for any internal improvement intended to facilitate commerce, except for furnishing lights, beacons, and buoys, and other aids to navigation upon the coast ; and the improvement of harbors, and the removal of obstructions in river navigation ; in all which cases, it is provided that the duties shall be laid on the navigation facilitated thereby.

It requires that after a given day the post-office department shall be self-sustaining, and prohibits the passage of any bankrupt law to discharge any debts contracted before the passage thereof ; or any law impairing the right of property in negro slaves.

It requires that all bills appropriating money shall specify in Federal currency the amount of each appropriation, and the purposes for which it is made ; and prohibits Congress from granting extra compensation to any public contractor or agent after the contract is made or the service rendered. It specifies the powers and duties of Congress in reference to the territories of the Confederate States ; and particularly recognizes and establishes the institution of slavery therein. It changes the presidential term from four to six years, making the President ineligible for a second term, and gives Congress the power to grant to the heads of executive departments the privilege to sit in either House of Congress, and discuss questions appertaining to their respective departments. It provides that Congress, upon the demand of any three States concurring in the proposal of any amendment, shall summon a convention of all the States, to take into consideration the amendments to the constitution thus proposed.

It restricts the limitation in the old constitution that " no tax or duty shall be laid on articles exported from

any State," and provides, that it may be done by a vote of two-thirds of both houses.

It prohibits the importation of negroes of the African race except from the slaveholding States or territories of the United States, and gives Congress power to prohibit it from any State or territory not of the Confederate States.

It omits the prohibitory clause, "nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another." Omits the prohibition to the States to "emit bills of credit." It restricts the prohibition to the States without the consent of Congress to lay any duty on tonnage, so as to except "sea-going vessels, for the improvement of its rivers and harbors, navigated by aid vessels," but provides that such duties shall not conflict with any treaties of the Confederate States with foreign nations; and requires that any surplus revenue thus derived, after making such improvements, be paid into the common treasury. It provides also that where any river divides or flows through two or more States they may enter into compact with each other to improve the navigation thereof.

It requires a vote of two-thirds of Congress to appropriate money, and the yeas and nays recorded, unless the appropriation is asked by the head of a department and submitted to Congress by the President; or for the purpose of paying its own expenses and contingencies; or for the payment of claims against the Confederate States, the justice of which shall have been judicially declared by a tribunal for the investigation of claims against the government, which tribunal it is made the duty of Congress to establish.*

*Such are the leading features which distinguish the Confederate States' Constitution from that of the United States, at the time of the adoption of the former. The author's

But the author's main objection to this, as to the old constitution, was that it did not provide absolutely for the enforcement of the doctrine of perfectly equal rights, immunities, exactions, and burdens to all States, sections, classes of people, and of occupations and callings, so far as they are affected by the common government; and that odious and oppressive discriminations may be made by statute law without a violation of the constitution. The conclusion of the elaborate chapter was in these words:—

“When we shall have waded through years as we already have through months of sore conflict, privation, slaughter, and waste—if a favoring Providence shall see fit to so afflict us—when we shall have gained our independence of the United States, with whose powerful and increasing armies our gallant kindred now contend, then we shall have gained an extension merely of the old charter of liberty. We shall then have, as a boon to ourselves and to bequeath to our children, the right to cavil and debate as to what is meant by the grants and restrictions in the Confederate constitution, until the deep wells of passion are stirred up, sectional or internal jealousies form into factions and parties based upon opposing interests. Then the descendants of the heroes of Bethel, Manassas, and Oak Hill will be called on to again solve in blood the still unsettled problem of human rights and wrongs.”

voluminous criticism upon the then apparent want of completeness in constitutional reform, and the insufficiency of this organic law to prevent another revolution in case of the success of this, are here omitted, as the work of organic change in favor of the rights of the State and people has been effectually arrested by arms. He then thought, and attempted to show, that the powers and prerogatives of the Executive, and of Congress, as well as the reserved rights and powers, the duties and obligations of the States, should have been clearly, specifically and unmistakably defined, and the remedy, if any was intended, indicated for wrongs and insupportable violations of the common compact. They were forming another confederacy of co-equal and sovereign States. The mooted questions of the old Union related mainly to these subjects, and led to separation and war between the States. It seems remarkable that there was a total omission to provide any remedy for aggressions, assumptions, and intolerable grievances; not even the question of secession is referred to in the new organic law, upon the right or wrong of which, as a remedy, depended the right or wrong of the collision that was to ensue, in a constitutional view.

CONFEDERATE CONSTITUTION.—HOW ADOPTED.

The Confederate constitution never came before the people for ratification. The delegates to the State conventions were elected by the people to decide upon the issue whether the States calling them would submit to the election of Abraham Lincoln as President of the United States and the placing in power a sectional party and administration hostile to the institution of slavery and upon the mode and measure of redress. After passing secession ordinances and separating the respective States from the Union, as understood by us, they proceeded to appoint delegates to a convention of seceded States upon the invitation of Alabama. In many instances persons of their own body were appointed. In Georgia all the delegates to Congress, except Howell Cobb, Martin J. Crawford, and Augustus R. Wright, were delegates from their respective counties in the State convention.

The convention of States or provisional Congress framed the Confederate Constitution ; referred it back to the same State Conventions by which alone it was ratified. The people did not appoint the members of the provisional Congress, and never by their vote upon it ratified the Constitution enacted by it.

But while there was no formal specific ratification except by the Secession convention, the hearts of the people generally were in full sympathy and accord with the movement, and approved the apparent haste under the pressing emergencies with which it was effected. The convention desired no popular discussion on the form and details of a constitution in the face of a vital struggle for national life itself. And the people generally having full confidence in the wisdom and patriotism of the provisional Congress did not desire to have it discussed. It

had met on the 4th of February and made and organized a provisional government; and by the 11th day of March framed and submitted to the State conventions for ratification the form of a permanent Constitution.

The Congress proceeded to organize a post office department, war department, the attorney-general's or department of justice, treasury department, and department of state, and to adopt such enactments as the situation of affairs seemed to require in order to carry on the machinery of the new government, and for the public defence in case war should result from the separation.

EFFORTS TO NEGOTIATE.

It was the settled purpose of the new government, and a large and overwhelming majority of the people, now that the States had withdrawn and formed a new union, to maintain it even at the hazard of war between the seceded States and the United States. But it was intensely desired by many of the people that it should be evaded, and the separation result in the establishment of peace and amity between the two governments. To this end a commission was sent to Washington with powers and instructions to adjust and settle all conflicting claims and complicated affairs between the United States and the Confederate States in a manner satisfactory to both, provided the former would negotiate upon the basis of the independence of the latter. This commission necessarily failed, as that government was fully determined to treat the seceding people as rebel subjects, and in no sense whatever to recognize any legal status or any claim or demand of the seceding States as a separate and independent government. Alleged perfidy and duplicity and contemptuous treatment by the officials at Washington toward the com-

missioners afforded grounds for severe criticism and tended further to add to the provocations, and inflame the passions of the Southern people.

EFFORTS FOR RECOGNITION.

The Confederate States also sent a commission to Europe headed by William L. Yancey of Alabama, with a view to procure the recognition by England and France of the independence of the Confederate States.

It had been often urged by speakers and writers to the people of the South, when favoring secession, and in controverting the probability that war would result, that the United States were too deeply interested in our products to go to war with us; and that England and France being manufacturing countries, and largely interested in the growth of raw fabrics in the Southern States, would be by sympathy based on interest and jealousy toward the United States, the only remaining part of this country that offered them competition, would become our friends and allies, and upon the formation of a Southern government would promptly recognize us; and thus tend to prevent war. Our people, as well as our government were sadly disappointed, when by the entire failure of those governments to move on that line, they suddenly realized their fixed purpose of neutrality in form, but quasi hostility in fact and effect; and that from these powerful and controlling European nations all the recognition we could get, until our independence should be achieved, was that of "belligerents;" for whatever of sympathy may have been felt by English and French people toward the Confederate States, it became more and more apparent that we had no well grounded hope of any from those governments.

EFFORTS AT COMPROMISE.—PRESIDENT BUCHANAN.—ACTION OF THE BORDER STATES.

The work of separation and reorganization having been completed to the satisfaction of the friends of the revolution, there seemed to be but one check to the general joy and happiness of the people; one fearful barrier to the immediate national prosperity. Our house was easily set in order; our affairs among ourselves were adjusted without an apparent element of strife or discord; for, as to all the elements, moral, religious, social and material, all that exert any control in politics and government, we were then a united, earnest, and enthusiastic people. The great check was in the terrible truth, that our relations with the government of the United States with which the Southern States had been so long bound by fraternal, social, material, and constitutional ties were not settled. The great problem was still to be solved—whether our demand to depart in peace, live separate, and be an independent nation, was to be allowed without force by that government. The public awaited the determination of the issue with deep anxiety, and with mixed emotions of hope, dread, and fear. Maryland, Delaware, Virginia, North Carolina, Tennessee, Kentucky, Arkansas, and Missouri, all slaveholding Southern States, had not seceded. Strong hopes seemed to be entertained by the leading statesmen of most of those States that terms of adjustment and reconstruction might still be agreed on; and that by wise and prudent councils the final dismemberment of the Union might be prevented.

These hopes, however, were not based on any overtures, propositions, or manifestation of amiable temper or peaceful designs by the Republican party, in or out of Congress,

or from the executive department of the government. Their leaders seemed defiant; their political press contemptuous in tone; while the members in Congress promptly voted down every proposal that sprang from Southern men seeking to conciliate and reunite the sections.

The seats of the members from the seceding States had all been vacated upon the passage of the ordinance of secession by the respective States. The members from the border slave States not seceded, were left to contend against the overwhelming numbers of the Republicans and War Democrats in Congress.

A peace-Congress composed of delegates from those border States was held, and presided over by the venerable Ex-President John Tyler of Virginia, to which many looked with anxious hope, but was unavailing. Hon. John C. Breckenridge, senator from Kentucky, the honored leader of the southern wing of the old Union Democracy, remained in his seat, and brought to bear his powerful logic and eloquence to no purpose but to satisfy himself and the country that there was but one alternative left the South—submission to the new administration, and the rule of the sectional Republican party, and the influence and logical sequences of its teachings and doctrines on the institution of slavery and the people interested in and identified with it, or prompt preparations to resist its aggressive and coercive power. Propositions for compromise conciliation were submitted by the venerable and sage leader of the old southern Whigs, Hon. John C. Crittenden of Kentucky. They too were spurned by the unyielding Republicans.

President Buchanan had been defeated in his efforts to preserve the constitution of his country and prolong its

unity and peace. His policy was condemned by the omnipotent voice of the people of his own section of the Union. His administration, like his long and eventful public life, was drawing to a close. He had lost prestige to a large extent, and fallen between the contending hosts, not looked to as a leader of the North, not relied on as a friend of the South, or dreaded as among her strongest foes. He provoked the ire of the Northern people by an alleged inclination to favor, or to be too lenient towards the South. He provoked the animadversions of Southern people, by what appeared to be a vacillating policy and course of conduct. A patriot desiring to prevent dissolution and strife, and to see a peaceful termination of the pending troubles, but without power to control the storm which he would not aggravate by what appeared would be a futile attempt at prompt suppression.

His long and able services to his country and government in Congress, in the cabinet, as minister abroad and as President of the United States, begun in the brighter and purer days of the republic, characterized by unfaltering devotion to what he regarded the public good, through sunshine and shade, amid the storms of public passion, and in the calm and serene days of the peaceful past, was now about to terminate with the violent severance of the Federal Union he had so long loved and cherished.

SECESSION AND ACCESSION OF BORDER STATES.

All efforts to reconcile the alienated sections having failed, and the people of the border slaveholding States having left to them the choice of their own course, to remain in the Union and abide the consequences to flow to themselves from a government regarded as to a large

extent hostile to them, and their institutions, and to be compelled as citizens subject to that government to aid in subjugating those who had withdrawn, and with whom they had common cause of complaint,—or to unite their fortunes and destiny with them,—did not long hesitate.

As South Carolina had led the cotton-growing States, and seemed by common consent to bear the palm for the unanimity and promptness of her people, Virginia now seemed to be looked to with deep interest as likely to affect the action and course of the border States. Many of the people of the cotton States had favored and voted for secession as a remedy under the hope and belief that it would be peaceful. But Virginia adopted it, after its peaceful features had vanished; and when her people knew that grim-visaged war was at her gates as an alternative, threatened and morally certain, to submission; and with a strong probability that her own bosom would be the seat of the deadly and wasteful conflict.

Her ordinance of secession was adopted on the 17th of April. Her sublime example was followed by Arkansas on the 6th of May; by North Carolina on the 20th, and by Tennessee on the 8th of June.

Maryland cast her lot on the side of the Union, notwithstanding many of her noblest people were true to the South; and many of her brave sons voluntarily assumed the labor and danger of defending her cause.

The Executive of Missouri declared that State seceded on the 8th of August. But the people were opposed to the movement, and went with the Union. Still a few of the noble and brave joined our standard.

In Kentucky, a provisional southern government was organized after it was known that the State authorities would not act, and when it was strongly probable that the

majority of her people favored the old Union. Both Kentucky and Missouri, however, sent members who acted as such in the Confederate Congress, and troops to our armies.*

*If those States, with their vast resources of men and stock, of meat and bread, had gone promptly with the other border States, and joined heartily in it, as did Virginia, Tennessee, and Arkansas, there can be no ground to doubt that the achievement of Confederate independence would have been the result of a short war between the North and South. And even if she had had Kentucky without Missouri the cause would not have been lost.

CHAPTER VI.

PREPARATIONS FOR WAR.—COMPARATIVE STRENGTH AND RESOURCES.—OPENING OF HOSTILITIES.—FIRST YEAR'S OPERATIONS IN THE FIELD.—SITUATION OF THE PEOPLE.

After the secession of the cotton States and the organization of the Confederacy, in most of those States the military spirit, in anticipation of warlike movements, began to be kindled. Volunteer companies in the towns and cities began to inure themselves to drill and discipline, and new ones to form in every direction. It was not to cast lots upon whom the burden should fall of defending the South, but the questions were, who can soonest get ready, organize, and equip for the post of danger? Who can get arms, and who shall be the favorites of the government in being allowed the honor of going first to the war—of repelling by force the invading foe?

The government of the United States had garrisoned Fort Sumter, which commanded the approach of the city of Charleston; and Fort Pickens, which commanded the approach to the navy yard at Pensacola. The State of South Carolina, while indignant at the action of the government in covering her designs, and in trifling with that State, and in garrisoning Fort Sumter contrary to representations held out to her commissioners at Washington; and while many of her people desired and urged a different course, very wisely forbore to make any assault upon the fort or attempt to regain it by force, but contented

herself with preparations to prevent the reinforcement of the garrison. Such was the condition of affairs when the conduct of them by the State was relinquished to Confederate authority. Major Anderson of the United States army was in command of the garrison in the fort, while its reduction was confided to the command of Brigadier-General G. T. Beauregard of the Confederate States provisional army, then composed of such State military organizations as had been turned over to the Confederacy, and of such volunteer companies as had been tendered to and accepted by the Confederacy. The South Carolinians guarded the approach of United States vessels which might be intended to provision or reinforce the fort while the works projected for the reduction of it were being constructed. Major Anderson contented himself to witness these hostile demonstrations without attempting to disturb them although they were under the range of his guns.

The artillery fire from one of the Confederate batteries, erected to command the approach to the fort, upon a United States vessel approaching the fort with supplies in violation of the faith of the United States government not to attempt to provision or reinforce it but under orders from her military authorities, may be denominated the first shot of the revolution. This was followed within a few days by the opening of General Beauregard's batteries upon the fort, which resulted in its reduction. All efforts that peaceful inclination or honor required having been exhausted, the single alternative was left of reducing the fort, or suffering it to remain in the hands of the United States forces in a threatening posture towards Charleston.

The question as to who begun hostilities depends upon the right of secession. If secession was an act of rebellion

the attempt to occupy the fort and expel the forces of the United States was an attack upon that government and clearly an act of war. If secession was the exercise of a right to which the States were entitled, then Fort Sumter was within the jurisdiction and limits of a government foreign to that of the United States, and the occupation, garrisoning, and holding it in a threatening posture, and the attempt to provision and reinforce it against the consent of the new government were all acts of war on the part of the United States; and the reduction by force, and the occupation of the fort, and the expulsion of the troops of the United States on the part of the Confederate States, were acts of self-defence.

The right of secession was a foregone conclusion with us and we could not hesitate as to the proper course to pursue in that emergency. That right was denied by the government of the United States. The authorities of that government, therefore, held that the firing upon the vessel in their service and upon the fort in the occupancy of their troops were acts of war. This difference of opinion and different line of action in consequence of it brought the two nations to the conflict of arms. But there was underlying this ostensible issue of forces, and antecedent to it, a settled purpose on the part of the United States government to resort to coercion. If she had been peacefully inclined, there can be no possible doubt that she could without dishonor, and would without hesitation, have given the matter a direction which would have met the ardent wishes of the South by avoiding the resort to arms. Our only mode of avoiding the issue of battle was to submit unconditionally, and of this our people and government were fully sensible.

The works projected for the reduction of Fort Sumter

as well as the bombardment are said to have been conducted with consummate skill, and the latter was attended with scarcely any serious casualties upon either side. The great God of battles seemed unwilling, even after the peace of a continent was broken in the thunders of battle, that the red tide of war should be opened upon such a country.

The success of General Beauregard's operations against Sumter raised him to the full measure of public confidence, and the acts of hostilities had the effect to raise the blood of both sections to fever heat. All hope of avoiding war was now blighted, and the purpose of cultivating peaceful measures, abandoned. The demand of the South to be let alone, she had lawfully determined to enforce if possible, regardless of the cost in resources, treasure, and blood. Invasion and conquest under the guise of suppressing the rebellion and restoring the Union engrossed the great Northern mind, and stirred the passions of that people to the utmost capacity. Their public journals were the daily chronicles of busy preparations for war. The gates of Janus closed amid the profound peace of the United States for thirteen years were now fully open. The storm of popular passion had now reached the point of madness, and devoted the people of both sections to destruction, and the "red right hand" of Omnipotence was upraised to smite them.

COMPARATIVE POPULATION.

By the census report of the United States for the year 1860, the total population was 31,646,869; that of the non-slaveholding States was 18,950,759; that of the non-slaveholding territories, 262,701; white and black population of the slaveholding States, 12,433,409. This, however,

is not the estimate of peoples as they stand opposed in this war. The population of the eleven States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Texas, and Tennessee, which are the States properly embraced in the Confederacy, are whites 5,671,723; slaves 3,570,987; to which add a liberal estimate of the people of Missouri, Kentucky, and Maryland, who co-operated with us, say one-third of the people of Missouri and Kentucky, and one-fifth of those of Maryland, added to the white population South 797,793 whites, and 130,776 slaves, making 6,468,516 whites, and 3,701,763 slaves and a total population in the South in that war of 10,170,279. Add to the northern population the remainder of the people of Missouri, Kentucky, and Maryland not included on the southern side by our estimate, 1,967,766, makes the grand total for the North 21,181,226.

In addition to the fact that more than one-third of the 10,170,279 on the side of the South were slaves, liable to be abducted or corrupted and rendered useless, and an element of weakness upon the near approach of the enemy, the foregoing is a more than liberal estimate in favor of the South when it is remembered that Western Virginia and a majority of the people of East Tennessee were opposed to us, and co-operated with the other side whenever opportunity offered, and there were numerous persons along the border in other States thus disaffected. When it is considered that President Davis adopted the policy of defensive war and declined generally to invade the enemy, it is apparent at once that the efficient number for the South was decreased at every advance of the enemy. For those who were thus cut off from us and left within the line of the enemy's occupation were powerless to aid us, even if they did not be-

come disaffected by the presence of the enemy among them, and their resources in provisions were not only thus cut off from us but were converted to the use of the Federal army.

It is not practicable to present a precise estimate of the strength of the two sections in people. The North increased rapidly by immigrants, and when we consider the extent of the Union sections of the South, and the fact that so large an element were slaves and unavailable for bearing arms, it was thought fair to estimate three for one in favor of the United States against the Confederate States.

The superficial area of the Confederate States was 741,990 square miles; that of the United States, including the four slave States of Delaware, Maryland, Kentucky and Missouri, was 1,045,820 square miles; and that of the territories of the United States, 1,580,000 square miles.

DIVISION OF TERRITORY.

The dividing line between the two confederacies, if fixed on the northern boundary of the eleven States mentioned, was upwards of two thousand miles in length. By far the greater portion is a dry line; and upon the balance the Red, the Mississippi, the Ohio, and the Potomac rivers mark the boundary. There were no mountains forming a line of boundary, except a part of that between Virginia and Kentucky. The line of sea-coast to be defended was still greater in length than the boundary line by land, reaching from the mouth of the Rio Grande to that of the Potomac, from which any one of the eleven States could be directly invaded except Arkansas and Tennessee. The States of Virginia, North Carolina, Texas and Tennessee furnished a large surplus

of beef and bacon, corn and wheat, while a considerable portion of these essentials were drawn from other States. The resources of the South in sugar, syrup, and rice seemed ample to meet the wants of the people and the army. The large area of the cotton crops occupying the most valuable lands of the cotton States rendered the supply of grain and meat, in those States, somewhat sparse. But the planters wisely determined to curtail the cotton, and largely increase the crops of grain, and there was but little ground to fear that the confederacy would be self-sustaining in all the articles needed to feed the people and the army for an indefinite period.

COMPARATIVE RESOURCES AND VALOR.

It was apparent, however, that the resources of the United States were vastly superior to ours in cattle, hogs, corn and wheat, from the middle and western States. The facilities for internal transportation of troops and army stores by railroads and rivers, seemed to be abundant in both sections. The North also possessed great advantages over the South in the supply of mules and horses for wagons, artillery, and cavalry. The supply in the South was ample for immediate use, and for some time to come; but as the war became long protracted, this became an embarrassing subject to us. For war is as destructive to horses and mules as to men, and we had comparatively few facilities in the South for raising these animals.

Great reliance was placed in the South upon the superior courage and bravery of our troops over those of the North. While there was no apparent reason to doubt the prowess of the South, or the skill of her rising military chieftains, but great reason to be proud of both, there

did not seem to be good grounds to doubt the soldierly qualities of the northern men. The vigorous, physical and mental constitutions of the western men, in connection with their habits and mode of life, did not seem to warrant the conclusion that they would prove deficient in courage, endurance, or skill. Drill, exposure to hardships and privations, and familiarity with danger, did much to improve the prowess of the troops from the middle and eastern States. The large element of Irish composition in the federal army, together with the presence of the troops of the regular army who had seen much service, were things which an impartial and considerate spectator could not overlook in order to reach the conclusion that federal troops in that war would be formidable in battle. There were, however, apparent, well-settled facts which warranted the conclusion that the Confederates would be a match for the Federals, man for man. The fiery impetuosity of their temper, the fact that personal physical courage in private life was esteemed in the South a higher virtue than it was in the North, the familiarity of all our people with the use of firearms, and their consequent skill as marksmen, and above all, the consideration that they were fighting in defence of their country, homes, firesides and families, against an invading army—stimulants which must be wanting to the northern troops—seemed to warrant this conclusion.

They were vastly our superiors in mechanical skill and in their resources and preparations for the manufacture of machinery, clothing, shoes, blankets, tents, arms, ammunition, wagons, rolling stock for railroads, boats for river service, transports, gun-boats, and all manner of ships of war, and also in navigation. They had a navy, we had none. They had an army which they retained,

except that most of the army officers of southern birth quitted their service to join ours, while we had no army and but comparatively few arms or ordnance stores. They had a government fully organized and a full representation at foreign courts; we had to supply the former, but were wanting in the latter because foreign governments did not recognize our nationality. They had a national credit which we had to supply by a judicious use of the resources at our command. They had the open markets of the world in which to buy and sell, and enlist hireling troops to take the place of their citizen soldiers, while we were blockaded and our ports of entry sealed up except to such ships as were fortunate enough to carry on a trade through the blockading squadron of the enemy.

Such were some of the difficulties that seemed to environ the Confederate States and stand between us and the independence of our country. But we had a determined will to be free. We had the peace and security of our homes, the safety of our women and children, the weal of the present and future generations at stake; we had truth, justice, honor, and humbly trusted that we had the just God of battles on our side and would ultimately prevail.

For the causes and with the auspices we have endeavored faithfully to set forth, the government of the Confederate States, sustained by their people, boldly ventured upon the expedient of war for that independence.

The occupation of Forts Pickens and Sumter by the forces of the United States, as we have seen, was cause of irritation to the people of the Confederacy. The government took early steps to expel them. While the command of the forces and works for the reduction of Fort Sumter was confided, as we have seen, to General Beau-

regard, those at Pensacola for the purpose of reducing Fort Pickens were confided to the command of Gen. Braxton Bragg. The country waited for several weeks in vain to see the success at Fort Sumter repeated at Fort Pickens; but after weeks of delay the people ascertained, what was probably much sooner known to the commanding general, that the enterprise was impracticable.

In the mean time the question absorbed the attention of the people, and doubtless of the government, as to what mode of attack the Federals would employ; whether they would invade us from the Atlantic and Gulf coast, or organize land forces and invade the border States.

That the military councils of the enemy were guided by able and experienced men who had seen much service could not be doubted; while the capacity of those in our service to command large forces with success was a problem which time and trial alone could solve. It was expected of Lieutenant-General Winfield Scott, who was at the head of the United States army, that he would be faithful to his government while in its service; but by many it was doubted whether he would consent to continue in that service if it should involve the invasion of Virginia, his native State; and which contained beneath her sod the ashes of his own children. The struggle between the pride of an eminent and lifelong soldier; the love of military glory; the ardent attachment he cherished to the union of that country, beneath whose flag he had so often led her sons to victory, on the one hand; and the behests of a sympathy which would have moved a less stern heart than his, and which is common to the most of mankind, on the other, must have been one of sore trial to the veteran chieftain. But the country was soon made acquainted

with the stern reality that Virginia was to be immediately invaded under the supreme command of General Scott. The occupation of Fortress Munroe and other outposts on the Virginia border along the Chesapeake bay, and the Potomac river, was soon followed by the advance of United States troops across the river opposite the city of Washington; and the occupation of Alexandria and other places on the soil of Virginia. All doubt was now dispelled; whereupon the Confederate government, in order to be near the scene of action, removed from the city of Montgomery in Alabama, and fixed its temporary location at the city of Richmond in Virginia. Most of the troops in the service and those being tendered and received were hurried to the Virginia frontier by railroad, to aid in arresting the progress of and repelling General Scott's forces.

The requisitions for troops by the President upon the States were promptly filled by volunteers; who were so eager to engage in the active campaign, and so impatient to reach the post of danger, that they could barely be restrained in the camps of instruction until they could be taught the ordinary commands and evolutions of the company and regimental drill. In most instances, the expenses of fitting out the volunteers for the field were borne by the men themselves, and by contributions freely made by citizens. The sympathy of the people for the absent and departing soldiers was deep and universal. The tears of multitudes of people in all conditions and circumstances in life, and even of the slaves, flowed copiously, betokening the warmth of their devotion to the departing companies and regiments. The men of the towns and cities, and along the lines of railroad, greeted them with shouts and huzzas; and the women with the waving of miniature

flags and handkerchiefs, and with smiles of admiration, and words of comfort and cheer ; and lavished upon them the substantials and luxuries of life. In most houses where a sick soldier might chance to lodge, he was an object of more tender regard than a sick inmate. The bodies of the dead were returned under escort to the bereaved relatives at home. The enthusiasm of the people was only surpassed by that of the soldiers themselves, and they responded to the greetings of the people everywhere with shouts and yells that rent the air, and spoke a language of determination and zeal which nothing could surpass, and which no one could misunderstand. The pay of a soldier was no part of the inducement to volunteer, in perhaps a large majority of cases. Of the troops who were entering the army at this period, it is probable that there were as many who would have paid, if necessary, for the privilege of getting into service as there were who would have declined to go for want of pay. In cases not a few, where the poor men who had not subsistence to leave with their families at home, and who desired to volunteer, found no difficulty in procuring the promises of their more opulent neighbors to provide for them in their absence ; and thousands departed for the field upon the faith of such unsubstantial reliances whose families were dependent upon their daily labor for food and raiment, and unable to procure these without them. The spirit of volunteering was only equalled by the willingness and anxiety of the people at home, of both sexes, to aid in whatever work or contribution seemed necessary to forward the good cause ; in a word, for the first few months, war went in silver slippers, and wore only an aspect of glory and renown.

The young men on their way to the war, sported, by

their sides, savage looking dirks and pistols, some antiquated, others of the more recent improvements, as if they expected to fight the enemy with them; and many doubtless expected that sort of rencounter, and desired the opportunity to display their superior prowess in the imminent deadly breach.

There was extant, a great mania for what, in the parlance of this day is denominated "Zouave," which means, so far as I can comprehend it, that feature in the military which delights in exhibiting, to the admiring gaze of spectators, a fantastical and gay military suit, of which there seems to be no settled model, and of actions and evolutions, equally fantastic, as if the whole was intended to strike terror into the hearts of the country people. For certainly a brave and disciplined army on either side would not run from the fantastical array of colors and costumes until those who wore them should show either superior courage or skill in the use of arms, but would delight in the advantages of vision this gay dress would afford them on the field. As to the manual exercises and quirkish motions of the Zouaves, if it should ever occur that a battle is fought hand to hand with the bayonets, gun-stocks and barrels, instead of bullets, they might be of great benefit, for the reason that the men in that case will already have been taught to strike and dodge the enemy—to run from and pursue him, as the casualties of the scuffle might render either tactics necessary.

In reference to most men whom the world calls patriots it may be noted, that there is a singular mixture of devotion to country with devotion to self. I am not able to analyze it so far as to designate the exact parts and proportions of each which constitute the great military hero, the great politician and statesman, and the demagogue.

I am certain, however, that the proportions differ in the different classes, and in different men of the same class. There is no doubt but there were some few men who raised companies and regiments for service in this war, and many privates who volunteered, from a sense of duty to the country, realizing at the same that it was at the sacrifice of their personal and private interests. It was evident, however, from the beginning of hostilities, that a man who did not take part in the war would stand no chance whatever for promotion in the civil department, after it should have terminated. Men love wealth because it gives power, and in popular governments they love office for the same reason. This prevailing mania has made a majority of the intellectual portion of our countrymen place-hunters and office-seekers; universal suffrage and eligibility to offices of honor and profit has the effect to stimulate thousands of the ignorant and uneducated to seek promotion to the lower grades of office. The volunteering and raising of military forces is more a matter of calculation than most persons engaging in them would be willing to confess.

If the war should be of short duration then they expect to wear their laurels with gratification and profit to themselves. If it should last long, then it were better to have gone into it while there was opportunity to secure the positions of lieutenants, captains, majors, colonels, etc., than to ultimately have to go as private soldiers to fill up the decimated companies. Then this love of office and power was the very salt of the country, for it stimulated the aspiring men not only to volunteer but to bring to bear all their personal influence upon their fellow citizens to induce them to enter the service. Thus the cause of the country had its advocates and orators of different

caliber, and upon as widely variant processes of reason and logic, in every neighborhood throughout our whole borders. This same spirit coupled with natural bravery and the love of martial glory was a safe guaranty for the good conduct of these men after they had entered the service. It was a little humiliating, however, to observe that while the change from the walks of civil life to the exposures and associations of the camp, removed in a great measure from the restraints of religion and female influence, there were sad changes in the moral bearing of many men. Yet at the same time they had not discarded petty jealousies and contentions for place. This natural weakness of human nature had much to do in developing the causes which led to the dismemberment of the old government, and its effects upon the cause in which we were struggling were to be dreaded if the war should continue for many years.

The rapidity of increase in the forces on both sides during the months of May, June, and July evinced to all that the campaign of Virginia was to be upon a much larger scale than perhaps either government at first anticipated. It is probably true that the exaggeration by the press and people for sensational purposes and in a spirit of braggadocio had the effect from each side to stimulate the other to double diligence to raise and send forward countervailing forces. The chief difficulty in the way of the South was in furnishing arms to the troops who were willing and anxious to volunteer. Hence the attention of the government was at an early stage of the war directed to the subject of importing arms through the blockade from Europe, and of manufacturing them within the Confederacy. In this department it appears that no time was lost or energies spared to meet the pressing demand.

The policy of President Lincoln seems to have been different from that of President Davis in reference to appointments to high military rank. The former seemed willing in many instances to trust civilians with important commands, while the latter seemed to adhere with great pertinacity to men of military education and experience in the field. His fondness and partiality for graduates of the United States military school at West Point, where he was educated, had early become a subject of general remark, and of complaint among those gentlemen who held high political, professional and social stations, and who had not had in early life the advantages of West Point, and of whose fitness to command armies the president had not been fully impressed. Mr. Lincoln had, however, found a countercheck to the evils of his policy in that of promptly removing the appointees when they gave proof of incompetency.

The plan of General Scott's campaign in Virginia was to invade from four material points at the same time. Generals McClellan and Rosecrans advanced into that portion of the State west of and among the Alleghany mountains, known as Western Virginia, with forces variously estimated from five to fifteen thousand men. General Patterson commanding a larger force advanced from the upper Potomac into that fair and fertile region along the Shenandoah river known as the valley of Virginia. General McDowell with the principal column moved from the direction of Washington on the northeast of the State towards Richmond, while General Butler held the command in the peninsula. General Huger of the Confederate States provisional army held the command of our forces at Norfolk; General John B. Magruder those in the peninsula; those fronting the enemy's advance

from Washington were under Major-General G. T. Beauregard; while the army of the Shenandoah in the valley was confided to the command of Gen. Joseph E. Johnston. The forces sent to Western Virginia, and which seemed to have remained in detached portions under Gen. J. B. Floyd, and other subordinate commanders, were under the command of Gen. Robert E. Lee. Thus it appears the government, with a commendable magnanimity and zeal, but with questionable propriety, undertook the defence of the whole State. The impression of the country seems to have been that Western Virginia was not only disloyal to us, but that the expulsion of the Federal troops from it was impracticable, and that the occupation of it by the enemy would prove comparatively harmless to us, as the people there were separated by mountains from the true and loyal people of Virginia, over which it was as difficult for the enemy to advance and invade further, as General Lee found it to carry his troops and their supplies. The detachments of the forces, when they met the enemy, it was generally against superior numbers and sometimes against superior skill. The hardships and exposures to rain and mud during the prevalence of the camp diseases of the new troops, sickness and deaths, retreating before superior forces, and notwithstanding occasional successes and partial advantages gained over the enemy, the general want of success of the campaign in the mountains had a demoralizing tendency upon the troops; failed to accomplish the expulsion of the enemy from the country, or any substantial good to the cause of the South.

The surprise and defeat of Confederate forces at Laurel Hill, an advanced out-post under the command of Brigadier-General Garnett who was killed in the action, and

succeeded in command by Col. James N. Ramsey of the first regiment of Georgia volunteers, by the Federal forces under General McClellan may be recorded as the first reverse of our arms. The manifestation of high soldierly qualities and talents on the part of General McClellan, and of great cunning and energy on the part of his German subaltern, General Rosecrans, caused no little trepidation in the Southern heart as foreshadowing that we had to combat with military skill as well as superior numbers.

The splendid air-castles, built by men of sanguine temperament, of easy victory, were vanished into thin vapor, and the unwarranted calculations of thousands of good and true men, that only a few months were necessary to demonstrate to the enemy our superior prowess, and compel him to desist from his vain attempt at subjugation, were modified by the sober second thought that our success was to cost more toil and tribulation, and a greater outlay of blood and treasure, than was at first anticipated. The birth of the nation was to be attended with protracted anguish.

And now candor compels the confession that the campaign of 1861 in Western Virginia ended in ill-success, while in connection with the current events of the year it had not impaired the general confidence of the people.

So far as is known, the war was opened in Virginia, and the first shot was fired from a battery at Sewell's point, under the command of Capt. Peyton Colquitt of Columbus, Georgia, upon a Federal gun-boat. The battalion to which Captain Colquitt's company was attached was the first organized force sent from Georgia to Virginia, and perhaps the first from any other State. As an illustration of the spirit of the people, and the energy of Gov-

ernor Brown of Georgia, I will be pardoned for the allusion to the manner in which this battalion was raised and sent off.

Governor Letcher of Virginia telegraphed from Richmond to Governor Brown at Milledgeville that four companies were needed immediately at Norfolk, and, not having them ready, he desired to know if Georgia could despatch them at once. Having no organized forces in camp, the governor went to the office and, through the operators of the wires, got captains of city volunteer companies, Collins and Hardeman of Macon, Doyall of Griffin, and Colquitt of Columbus, to their respective telegraph offices, and asked them if they would respond to Governor Letcher's call. All answered in the affirmative; but some asked one, and some two days to get ready, the members of their companies being citizens and not being in camp. The governor informed them that they must decline, or go immediately. "Then we are ready," was the unanimous reply. And on the following day Governor Brown had the gratification to announce to Governor Letcher, by the telegraph, that the four companies were on the railroads en route to Virginia. In one or two cases the ladies of the city met and made up uniform suits for the whole companies before the hour for their departure the next morning.

The movements of the enemy on the peninsula brought them in collision with General Magruder's forces on the tenth day of June, 1861, at Bethel church, where a brilliant success was achieved by the Confederates, attended with considerable slaughter of the Federals, and a remarkable escape from casualties on our part. In this engagement, Col. D. H. Hill, of a North Carolina regiment, acted so gallant a part as to attract the attention

and applause of the public and honorable promotion by the government. The result of the battle, while it checked and discouraged the enemy on the peninsula, had the effect to electrify the South, and served greatly to mature the growing assurance of the army and people. The battle of Bethel was but a skirmish compared with other fields already made memorable in the annals of the war; and is likely, on account of the smallness of the force engaged in it, to sink into insignificance. But its consequences and effects are not to be measured in the faithful records of the revolution by the numbers of the slain, or the extent of the temporary advantages gained over the foe. For in the morale of the army much depended upon the results of the first conflict of arms; and the effect of this success told wonderfully upon the bearing of other troops upon other fields distant from Bethel church.

Courage in battle nerves men to act and endure, but when separated from confidence of success it is of but little avail. There are doubtless thousands of men who at the outset would not fight in single combat, but having confidence in those associated with them in line of battle they did not yield to the promptings of fear, but stood firm and discharged their duty well until familiarity with danger made them careless of its approach, trained and inured them to action and endurance, and made them good soldiers.

From the tone of the public journals in the United States from the early part of the summer it was evident that there was a strong outside pressure upon General Scott towards a forward movement for the purpose of capturing Richmond, the seat of the Confederate government. But this time-honored chieftain, well aware of the obsta-

cles in the undoubted valor of Southern troops and the skill of Southern commanders, better known to him than to the country at large, prudently awaited the maturity of his ample preparations in the accumulation of men, munitions, and transportation, upon which he relied for a successful campaign which should crown his brilliant career. The public anxiety was intense. General Johnston, with characteristic caution, maneuvered against General Patterson in the valley, and awaited his advance in a state of preparation to give him battle should he return to make the attack which the public was led to expect for several weeks. On the 19th of July a portion of General McDowell's forces had been put in motion and were encountered and signally repulsed by a part of General Beauregard's forces along the east bank of Bull Run creek. The intention to attack General Beauregard in large force being apparent to General Johnston he quickly transferred his command to the east of the Blue Ridge, and by a forced march formed a junction with General Beauregard in time to take a prominent part in the general engagement occasioned by the advance of General McDowell in force on Sunday morning, July 21st, near Manassas junction. General Johnston, with a courtesy as rare as his genius, awarded to General Beauregard the command of the field although he was of superior rank. The battle raged, with dreadful loss on both sides, from early in the morning until the afternoon was considerably advanced, and with fortune seeming rather to favor the Federals. The regular army as well as the volunteer forces fought with a heroism worthy of any cause, which, with the advantage of largely superior numbers, accounts for the advantages gained over the Confederates.

It is said, that the enemy were unaware of the fact that

Johnston had formed a junction with Beauregard prior to the engagement, and that they were fighting against their combined forces; and that the arrival, at an opportune moment and place, of General Kirby Smith with a division of reinforcements, in sight of the contending armies, was supposed by the Federals to be the coming of General Johnston's army from the valley. From this supposition or some unknown cause, a general panic seized the Federal army, followed by a disgraceful stampede of the whole force, leaving everything in disorder, and complete victory in the hands of the Confederates.

It is said, that to the Federal army, at a respectful distance in the rear, there were attached a number of persons of rank in both sexes who had come out to witness the sport of driving the rebels before the grand Federal army; the capture of Richmond, and the suppression of the rebellion by the planting of the United States flag upon the dome of the Capitol building. Numerous amazing relics have been preserved by our troops, gathered from the field of disorder, which with articles of more value were scattered in the track of their retreat. Among them envelopes of letters with mottoes printed announcing the fall of Richmond; others with the picture of a woman placing the flag upon the Capitol dome. So certain were the United States army and Northern people of an easy victory, and an almost unobstructed march through our country.

Hence it is by no means unnatural that dismay should have suddenly seized the public mind upon the announcement of this unexpected disaster.

It is a misfortune to be regretted, that after the hard marches and exposures of the Southern troops our army was not in a condition to advance, follow up, and improve

the advantages thus gained. The troops had evidently been chafed by the restraints imposed either by the policy of the administration in not carrying the war into the enemy's country, and resting our cause upon the defensive; or by the want of means and outfit to invade. Our army was made of volunteers who went out for action; the demoralizing effect of keeping them idle in camp was palpable, especially when they feel that the opportunities of success were diminishing with the constant increase of the enemy's forces. Thus they had lain comparatively idle, and seen General McClellan take the place of General McDowell, and by his military character restore confidence to the broken spirits of the enemy; and by his skill and energy they had not only recovered from the deadly blow stricken at Manassas, but become more formidable than before; and our forces were again thrown upon the defensive.

In this action at Manassas, South Carolina lost, among others her gallant son, Brigadier-General Barnard H. Bee; while the hearts of all Georgians were made sad by the fall of her intrepid son, Brigadier-General Francis S. Bartow. A number of officers before but little known, by their gallantry and ability attracted the public notice; among them Brigadier-General James Longstreet, of Alabama; Brigadier-General Thomas J. Jackson, of Virginia; and Brigadier-General Bonham, of South Carolina.

The public confidence in Generals Johnston and Beauregard was strong and abiding, and the country bowed with a becoming reverence and resignation to the policy of the administration, supposing and believing that the facts, if fully known, would show the superior wisdom of the executive counsel in restraining the further advance of our army after the victory of Manassas. There were

many able men among us who believed that, even if we were prepared to strike the enemy by invading him, the true policy for us in the end was still to act on the defensive; while numerous others were very restive under the policy, believing that the only true mode for us to defend was to advance and strike blows thick and heavy. They preferred to make the enemy's country the seat of the war; and to make them, as far as possible, not only sustain the losses and submit to the depredations necessarily following from the presence of large armies, but draw our support from their territory. They urged their policy especially as the question of provisions was likely to become a vital one in the South if the war was long protracted. It was supposed that under this policy the northern people would soon feel themselves directly interested in the cessation of hostilities, in which event the popular pressure upon Mr. Lincoln would be for peace instead of war. It was insisted that upon the defensive policy the government had adopted we not only would have our entire army to feed from our own resources, but must necessarily suffer all the damage that would result from the presence of two large armies upon our soil. Those who agreed with the President upon his defensive policy argued in this wise: We only asked to depart in peace and to be left alone prior to the war, and that is all we desire now. We do not desire to lay waste the enemy's country or to subjugate the northern people. To act upon this high moral theory must make for us friends abroad and even in the enemy's country. If we were to invade the North the case would be radically changed; our enemies will then be fighting in the defence of home and all that is dear or sacred to a people, and, therefore, whatever differences may exist among them as to the

propriety of the war will be immediately forgotten and they will present to us an unbroken front. That, in a word, it would be folly to think of invading a country like the United States, with a population as intelligent as our own, three times our numbers, and vastly superior to us in arms and provisions. However much we desired to see the evils of the war turned upon the invaders themselves, these reasons seemed to possess great weight and rather commended the prudence of the President and his Cabinet to the more thinking and cautious of our people.

The reverse of the Federals at Manassas seemed to have had the effect, after the first shock of disaster and disappointment, to arouse the energies of the government at Washington and of the people of the United States, who had up to that time not realized the difficulties in the way of suppressing the rebellion and restoring the Union. This effect was manifest from the general and extensive preparation upon sea and land to invest the whole Confederacy. In the South the effect was in a certain sense injurious. It is true it established general belief in the success of the revolution and had the desired effect in building up the confidence of the army, which were so much accomplished in the right direction if kept within proper bounds; but when it caused a relaxation in the energies of the people it could not be otherwise than deleterious. Abroad, Confederate stock went up and, from the tone of European journals, it was evident our cause had made a rapid stride at foreign courts. The prospect of early national recognition seemed to dawn upon us with a most encouraging lustre. The anxiety of the Washington cabinet upon this subject was too apparent to be concealed, and all the arts of diplomacy were brought

to bear upon the governments of England and France to prevent recognition.

In view of the prospect of opening diplomatic relations with those governments, and for the purpose of expediting that desirable end, President Davis appointed Mr. Mason of Virginia and Mr. Slidell of Louisiana as ministers to their courts. The gentlemen succeeded in evading the blockaders upon our coast, and reached Havana, in Cuba, where they embarked on a British steamer bound for Europe. The vessel containing the ministers was captured by the United States naval forces on the 8th of November, forcibly entered, and the ministers were carried away and confined in a northern prison. The insult thus offered to the flag of Great Britain was made the subject of complaint against the government through Her Majesty's minister at Washington, and a rupture between those governments was expected by many, and ardently wished for by most of our people. But they misunderstood the genius of the prime minister at Washington, and the spirit of the government. For the *amende* was promptly made, Messrs. Mason and Slidell released and forwarded on their mission to Europe, in pursuance to the demands of the English government.

The government of the United States had hitherto, prior to this war, refused to accede to the proposals of European powers to abolish *privateering* between civilized nations at war—regarding it as a relic of barbarism, and inconsistent with the present advanced stage of Christianity and civilization—and to place it upon the same footing with *piracy*. And now that President Davis had adopted that among other legitimate modes of warfare, and inasmuch as the Confederates had no maritime commerce, and could not therefore be damaged in case the

enemy should adopt it, the policy of abolishing it by the code governing belligerent nations became desirable on the part of the United States. It had been a weapon in their own hands heretofore, and now its keen edge was to be turned against them. But the governments of Europe, inasmuch as it was a point between the dismembered sections of the government which had declined to accede to their wishes to abolish it, prudently and sagaciously declined at this juncture to interpose in the matter. And as the case stood, while we were subjected to the ravages of invading enemies upon land, the authors of those mischiefs felt the fangs of a deadly serpent upon the high seas.

If the enemy had confined his depredations in property to that belonging to or in the service of our government, and his war upon persons to those in arms or otherwise in the government service, the moral sensibilities of the South would have been strongly appealed to to respect private property of the people of the United States whether on sea or land. But it was difficult to see how a merchant's cargo of goods on board an ocean steamer should be held more sacred than a farmer's smoke-house or corn-crib in Virginia; or the ship upon which the goods are carried entitled to any more courtesy at the hands of our people than the private residence of non-combatants, their fences, growing crops, stock and poultry, received at the hands of our invaders.

It is one of the evils of war in its most refined sense, and where all the conventionalities of civilized belligerent nations are strictly observed, that the innocent must, to a greater or less extent, suffer with the guilty; and it should address itself to the Christian and humane sentiments of mankind as one of the strongest reasons why the

martial disposition of nations should be replaced by a sentiment more in accordance with the teachings of the New Testament; but hope in this direction, which had sprung up under the general spread of biblical knowledge in America, had taken its exit. There was no alternative; the regeneration of the nations in this respect lies through the ordeal of a baptism of the people in each other's blood. When the appetites of the Americans for power, plunder, and glory shall be satiated on the one hand; or the love of justice and freedom be extinct on the other; then, and probably not till then, will they cease to resort to arms to settle their debates.

A great Southern Senator, Mr. Toombs, said in his place, "The last analysis of liberty is the blood of the brave." This liberty of which the Senator spoke is a divinity that has been worshipped under different guises and forms in all ages of the world. Altars have been erected to her in almost every part of the habitable globe, which have smoked with the blood of millions upon millions of victims, and still her cormorant appetite is unsatisfied; her rites and ceremonies are as variegated under different circumstances and in different countries and ages as the color and form of the clouds. She has an elder and younger sister who have ever remained close by her on either side; and who each, ever and anon, have passed by her name, and borne her image; they are despotism and licentiousness. Upon their altars too, have untold millions been offered. It would have been equally true if the Senator had said—"They have their last analysis in the blood of the brave; and brave men when once aroused, provoked and enlisted will fight as well for the one as for the other; and upon abstract as well as concrete ideas of either."

At an early stage of hostilities, the Federals, to hide a

deeper scheme and more deadly purpose, began to treat fugitive slaves as contraband of war; and to afford them shelter and protection. They held that inasmuch as slaves were laborers producing supplies for the South, and thus upholding the so-called rebellion, it was legitimate to deprive us of that support; that argument followed to its logical sequences would, in case such a step should promise a more speedy termination and certain success of their enterprise, naturally lead to a general blow at the institution of slavery—not by statute, but by the bayonet. Thus this struggle for political independence wound up in one to prevent our enemies from enslaving us, in order to liberate our slaves. The struggle unfortunately took that direction, and was attended with partial success to the Federals; and they were able to penetrate the interior of the country, and it necessarily entailed great suffering upon the people on account of the failure of bread crops from the deficiency in the labor department; while the issue appearing to be for and against the institution of African slavery in the eyes of all foreign nations, those who were against slavery sympathized with the Federals; hence, as the leading nations of the world at that time were opposed to slavery, the conclusion was that they rather took sides with our enemies, irrespective of the true merits of our quarrel.

At an early stage of hostilities, the scheme of a produce loan was put on foot by the Confederate government, by which agents were sent through the country to appeal to the people to come up and meet the wants of the government, and enable her to negotiate for arms and munitions of war, and such articles as were indispensable, by pledging each a given quantity of their produce of corn, wheat, cotton, rice, sugar, syrup, bacon, beef, etc., to be deliv-

ered by a certain day at certain specified points on the lines of public transportation. To this appeal, thousands made a liberal response and large amounts were subscribed, for which government securities were to be taken by the people in payment.

One of the chief difficulties under which we labored at that time was the diffuse nature of our military operations, rendered necessarily so by the many and far distant points at which the enemy had seen fit to assail us. It was considered a piece of masterly strategy on the part of the enemy to make demonstrations in every possible direction, and thereby call off and weaken our small forces, and make them a prey to their larger forces.

The people of the Confederacy had manifested a peculiar sensitiveness where the enemy approached them, and seemed to insist that the government should send forces wherever the enemy made a demonstration. By this means the President was harassed between the desire to concentrate his forces, and the disposition to meet the wants of the people in every direction. Those upon the threatened coast seemed to think the energies of the government should be mainly directed to the protection of our seaports, while the people more remote thought the cities and sandy plains upon the Atlantic and Gulf coast were of little importance compared with the grain-growing regions of the border States.

While the campaign in Virginia to which we have alluded was in progress during the current year 1861, scenes were enacted and operations conducted in other parts of the Confederacy of deep and absorbing interest. The work of fortifying the cities of Wilmington, Charleston, Savannah, Mobile, New Orleans, and numerous other places had gone bravely on, and the public mind, for a long time

anxious upon the subject, seemed to rest in the belief that the approaches to these important points were sufficiently guarded and fortified to justify the hope that they would be held against any attack likely to be made upon them.

It seemed to be a matter of the first importance to prevent the entrance of the enemy into the Mississippi river from above or below ; as the occupation by them of that stream would sever the Confederacy and destroy the communication between the States east and west of it. Hence the strong garrisons that were sent to the forts commanding the river below New Orleans, and the fortifications at different points from Memphis to the neighborhood of the confluence of the Mississippi and Ohio rivers. The demonstrations of the enemy early in the summer made it necessary to establish a line upon the southern border of Kentucky to repel the advance of the enemy at the several points that were threatened. Major-General Zollikofer, of Tennessee, with a Confederate force held the command of the southeast part of Kentucky near the Cumberland Mountains. General Albert Sydney Johnston, with his headquarters at Bowling Green in Kentucky, had command of the troops at that point and others thence west to the Mississippi river, where he succeeded Brigadier-General S. B. Buckner in command. Major-General Hardee, of Georgia, and Brigadier-General Gideon J. Pillow, of Tennessee, had for several months held commands along the same line west of the river and in the southeast portion of Missouri. The entrance of the Cumberland and Tennessee rivers into the State of Tennessee had been provided against by the erection of Forts Henry and Donaldson near the border of Tennessee and Kentucky. The high military character of Gen. Sydney Johnston had given confidence to the public that the farther advance

from that region would be effectually guarded, and that if Major-General Buell in command of the Federal forces should attack him, the victory of the Southern troops would be confidently relied on.

On the 7th of November, Brigadier-General Pillow achieved a brilliant success over the Federal forces, at Belmont, west of the Mississippi river, after a desperate conflict, driving them hotly pursued for several miles to their gunboats. In this action Brigadier-General Frank Cheatham, of Nashville, bore a gallant and conspicuous part; and also Bishop, now General, Leonidas Polk, of Louisiana.

Upon the invasion of Missouri by the Federal General Lyon, and his capture and dispersion of the organized State militia, General Jackson tendered to Ex-Governor Sterling Price the chief command of the whole Missouri State forces, with the rank of major-general, which position he accepted; and by his eminent soldierly qualities and vast personal popularity succeeded in collecting around him a band of determined Missourians and entered upon a series of skilful operations against Lyon which endeared him to the hearts of the Confederate people. Brigadier-General Jeff. Thompson, a native of Virginia, and a bold and skilful pioneer of the West, residing in Missouri, upon the call for the State troops by Governor Jackson, organized early in the summer of 1861 a brigade of 2,500 men as a separate command with which he, with a sleepless vigilance, annoyed the Federals during the fall months, skirmishing with them almost continually. His engagements at Bloomington, Pattonville, Black Water Station, Big River Bridge, and Frederickstown in October had given the name of Jeff. Thompson an early celebrity in the annals of the war in Missouri and Arkansas, and rendered it a terror to the Federals in that region.

The Federal General Lyon, by force of superior numbers, activity, perseverance and energy, succeeded in driving General Price before him nearly to the southwest border of the State, when he united his forces with those of Gen. Benjamin McCulloch, the partisan leader, whose laurels won in the Mexican war were still green, and pointed to him as a rising star in the revolution. McCulloch's forces consisted of troops from Texas, his adopted State, Arkansas and Louisiana. A severe and sanguinary engagement took place on the 9th of August at Oak Hill near Springfield, west of the Ozark mountains, in Missouri, in which General McCulloch held the ranking command, and bore himself with a boldness and intrepidity never surpassed in the annals of the war. The superior gallantry and skill of the Southern men were everywhere conspicuous, and resulted in a complete victory over the forces of General Lyon. The announcement was received with great joy throughout the Confederacy. The beauty of the picture, however, was greatly marred by the fact that the two commanders, Generals Price and McCulloch, fell into a dispute which was made public, about the honors of the day's achievements, and the parts respectively borne by the Missourians, and McCulloch's troops.

Brig.-Gen. John S. Williams, a native of Kentucky, residing at the opening of the war in southern Illinois, being driven out for his Southern sentiments, came to Kentucky, and under authority of the President raised a force of about 1,500 men armed with shot-guns and country-rifles to operate against the Federals, and rendezvoused at Prestonsburg. General Nelson, in command of 5,000 Federal troops, approached, and Williams retreated to Piketon, whither Nelson followed. Williams selected a

strong position at Ivy Creek, where Nelson was disastrously repulsed, and his army disorganized. Williams only lost eight men.

The autumn months were enlivened by an engagement at Dranesville in northern Virginia; the surprise and capture by night of the Federal garrison on Santa Rosa Island in Florida, and numerous conflicts and skirmishes on different parts of the extended field of operations.

On the 20th day of October, a sanguinary engagement was followed by a splendid victory for the Confederate arms under the command of General Evans of South Carolina, at Leesburg, near the Potomac river in Virginia. The Federal forces that had crossed at that point were under the command of Generals Stone and Baker, the latter of whom was killed upon the field. The battle is said to have been conducted with skill upon the part of the Confederate commanders, and with inordinate gallantry on the part of officers and troops. The retreat of the enemy from the field was, if possible, more disgraceful than that at Manassas in July before. Discarding arms and everything which could retard their flight, leaving artillery on the field, and a large number of prisoners in our hands, they crowded down the hill to the river in the most promiscuous and confused masses to escape by their boats across the river, pursued by the Confederates, and mown down at every step, while the well, the sick, wounded and dying were crowded into the boats to overflowing, and all in the wildest consternation and dismay. One densely crowded boat sunk in the middle of the stream, and many of the unfortunates were drowned. It adds to the disgrace of the Federals at Leesburg that they fought, and were whipped, with a force largely superior to that of the Confederates under General Evans. The

slaughter of Federal troops is described as immense, and their public journals did not attempt to conceal the fact that the defeat was overwhelming and disgraceful.

The first of November was the time fixed by law for the election of a president and vice-president of the Confederate States to be installed in February next, under the permanent constitution, when the provisional government should have expired by its own limitation. It was evident from the general tone of public journals in the South, and from every source of information, that the great mass of the people retained their confidence in the wisdom and fidelity of President Davis and Vice-president Stephens, and were content to have them elected and placed in power for the next six years, but were averse to agitation and controversy, such as would be likely to flow from opposition in the approaching election. Such opposition could not spring out of any difference in the principles and aims of the revolution. No great issues had sprung up, and there seemed to be no grounds for a contest except it should be based upon a want of confidence in the administration, or a personal preference for other men. Hence no opposing ticket was offered, and the incumbents were elected by the unanimous vote of the people, so far as they chose to exercise the elective franchise. It cannot be overlooked, however, that there was an unorganized element of opposition, which was not only espoused by men of ability, but found expression in numerous severe criticisms in such leading journals as the *Richmond Examiner* and the *Charleston Mercury*. The talents employed in the conduct of these journals forbade their being treated with contempt, and rendered them a source of real annoyance to the friends of harmony, who believed that the opposition was not founded

upon the highest motives of patriotism. But of its merits we did not undertake to determine, feeling that time alone could fully enable an impartial public to decide.

The effect of the enemy's blockade was everywhere visible upon the people in all grades and conditions in life in the South; and in nothing was it more striking than in the dress of ladies, and the curtailing of table luxuries. The display of homespun skirts by ladies of wealth and position had a wonderful effect upon the lovers of style and fashion in the less affluent grades of society. Knitting of socks and sewing upon garments for soldiers became elegant employments in the female circle; while those who had not servants to work for them, plied their busy hands daily in the manufacture of cloth for their own families, and their absent relatives in the army. The cutting off of the supply of coffee, and consequent suspension of its use, and the substitution of teas made from wheat, rye, barley, potatoes, and other articles according to the tastes of the people, was rapidly curing a national disease of the people in the Confederate States; and the effects were everywhere visible in the improved complexion of female cheeks and in the general diminution of nervous headaches, after the first effects of the privation subsided. The use of coffee as a stimulant and sedative, for its pleasurable temporary effects, had produced a general disease of the nervous constitution, requiring the application periodically according to habit to allay the nervous irritability which coffee itself produced; hence the suspension of its use was a sore trial generally to females, and most persons of a nervous temperament; but there was scarcely a case occurred under my observation in which the general health was not benefited as soon as the constitution could rally and recuperate from the inju-

rious effects which coffee, through years of indulgence, had produced.

If the war should have had the effect also to prevent the general use of spirituous liquors and tobacco, we should have been richly repaid in a national point of view for the losses we sustained; but these articles being so largely produced within the Confederacy, there was but little ground to hope for this reform. There was ground to hope that the general improvement in the physical condition of the women in the South, from quitting the use of coffee, and resorting to industrial habits and pursuits, would tell wonderfully upon the mental and physical constitution of the generation to follow us. Now if the men could be induced or forced to quit the dirty and deleterious use of tobacco, and the brutalizing practice of drunkenness, what a physical, intellectual and moral race would grow up to take the place of the present diseased and depraved set of men and women!

I should be untrue to my record of latent and visible causes and effects to pass in silence the wide-spread contagion of drunkenness among the officers of the Confederate army; or to express the apparently well-grounded fact that the well-earned laurels of many a gallant and otherwise promising Confederate, sooner or later faded from their brows under the blossoms of bestializing whiskey and brandy.

The first effects of these stimulants are well calculated to mislead the good and true, as well as to accelerate the wicked tendencies of the naturally bad and vicious. They affect the spirits agreeably, and seem to add to the physical vitality and improve the digestion and general health; but apace they blunt the moral sensibilities, gradually benumb the physical energies, becloud the intellect, over-

come the amiable qualities of nature's noblemen, and impart an irascibility to their temper; make steady siege upon the strongest fortress of mankind—their pride of character. And when that is reduced and overcome, the helpless victims of the temporary pleasure of the habitual use of the beverage sink to the level of vagabonds. It was folly to trust that men whose habits were hurrying them down this inclined plane could successfully discipline and command troops. The officers thus addicted were really incapable of the discharge of their important duties, disgusting and demoralizing to their men, and to the country, and a reproach to the cause. And it was a strong draft upon religious faith when we were required to believe that a just God would be propitious to the country while these evils were tolerated by the ruling authorities. There were grounds to hope that this blighting disease that infested the moral atmosphere of the Confederate camp would soon reach its crisis when the axe would be laid to the root. Officers had to cease to be drunken or be displaced if we wished to have a satisfied and disciplined army, or would hope to win battles. The low murmur of subalterns and privates gave an uncertain sound from the line of encampments, and if the evil was not arrested general demoralization must have ensued.

There is an aspect in which war seems to be at radical variance with the teachings of Christianity. It is in reference to the observance of the holy sabbath day. It would seem impracticable in many emergent cases to suspend operations on that day; the march of armies, the running of railroad cars, and steamboats under the regulations of government for transporting mails, troops, and army supplies, and the operation of telegraph lines for the transmission of news, are necessary to a state of war,

and it is not apparent to my mind how the war can be successfully carried on and these practices avoided. But the prevalent custom in the army of making the sabbath a day of review and inspection was certainly reprehensible and shocking to the pious portion of our countrymen, while there seemed to be no reason in a military point of view for that desecration of the Lord's day. The same authority which forbade the crimes of theft and murder, also enjoined the observance of the Christian sabbath.

Now if these crimes were constantly practised by the command of the government, it would be vastly more repulsive to the moral sensibilities for the reason that they violated the palpable laws of nature, and the mischiefs flowing from them were immediate and perceivable. But they no more certainly contravene the heavenly command, and we have no authority to support the belief that they would certainly provoke the Divine displeasure, than does the violation of the holy sabbath. Still there were numerous evidences in the history of the expiring year's operations to satisfy our learned clergy, and many of our spiritual minded people, that the Supreme Ruler of the world had signally interposed in our behalf.

There was a general advance of prices of all articles of apparel and provisions, owing to the growing scarcity in all that we were accustomed to bring from other sections, or from foreign countries, and to the decrease in productions and the waste of the army. The temptation to engage in speculation in these was more than the public virtue could resist, or public odium frown down. The number of those who obtained their consent to derive personal advantages from the woes and misfortunes of the country, and the wants of the self-sacrificing poor, seemed rather to be on the increase; and the danger was

that the great number of heretofore respectable men who had thus stifled their consciences, and were prepared to barter their country for gain, would continue to increase until this deadly species of treason, *not overt*, should become itself, respectable.

The public confidence seemed firm, that notwithstanding the temporary scarcity the resources were sufficient to produce the supply within reasonable time, in most articles of primary necessity. The limited number of cotton factories, and the great want of cotton cards in the hands of the people who had, in a great measure, suspended the domestic manufactures, gave grounds to fear that we should be closely pressed in obtaining a supply of clothing. The subject of a supply of salt to meet the wants of this country during a long, continued blockade was one of the most serious that the public mind was called upon to digest during the war. A portion of the salines in Virginia were already within the lines of the enemy's military operations, while those which were not, were liable to constant interruption. On the coast, all operations for the manufacture of salt were necessarily subject to be broken up at any time by the enemy's fleets. The reclaiming of the deposits of salt from the beds of smoke houses, where it had settled from the dripping of pork, had aided some in supplying this essential article ; while it was hoped that discoveries of salines might be made, and operations projected at points where salt could be safely manufactured. Some was imported through the blockade and the supply on hand, by strict economy, was made to extend far beyond the time to which it would hold out with the ordinary lavish mode of using it. It was evident, however, that our people who were determined upon the accomplishment of independence, would live without salt, or

upon a very small quantity, rather than contemplate the idea of surrendering to the enemy.

The question of subsistence for the families of poor men who were in the public service, and who were destitute of the necessities of life, assumed a grave aspect. It was found that private contributions and individual charity, however promising upon the opening of the war, had proven to be an uncertain reliance, and that suffering for want of food and clothing would follow unless some certain provision was made for their support. It was conceded on all hands that they were entitled to a support from the property holders of the country. The husbands, sons, fathers, or brothers who customarily supported them, being now detained from them in the post of exposure and danger, or having died or become disabled in service, in a struggle for the protection of property, the sentiment was general that the holders of that property ought to see to it that the helpless ones did not want for the necessities of life; it was found also that private contributions, even if they could be relied on, operated very unequally upon the holders of property. There were some also who were naturally very liberal and patriotic, and would from charitable impulses give bountifully, while others from natural stinginess or lukewarmness in the cause gave but very little, and others nothing at all.

In view of this, and fully alive to the necessity of providing a support for them, the Legislature of the State of Georgia, and perhaps of other States, empowered the county court of each county to impose a large tax upon the property of the citizens thereof to raise a fund for this purpose. The error of this system was found upon trial to be that the counties having the least property would generally have within their limits the most paupers.

Those very rich counties where there were but few families too poor to support themselves were almost exempt from the burden of supporting the poor; while in the populous poor counties the burden on the few small holders of property was either unsupportable, or the poor left unprovided for.

Experience demonstrated the necessity of drawing the pauper fund from the public treasury of the State, so that property wherever located was reached, and the poor whose necessities had been brought upon them by the withdrawal of their reliance for a support to serve in the Confederate army, were partially supported.

One portentous aspect of our affairs seemed to indicate a tendency to alienation between the rich and the poor of the people, and the troops of our army. The means of supplying the poor in many cases decreased, while the applicants for bounty increased, and not unattended in many instances with a spirit of exaction which was not visible at the outset. In other cases the ardor of patriotism and the breadth of charity alike decreased under the growing prospects of realizing high prices from speculators and extortioners for their bread and meat. Hence, their growing apathy to the idea of lavishing upon the hungry poor around them, notwithstanding the promises made to the departing soldiers, far away from home, enduring hardships, privations, and exposure to danger. This evil increased with the prospective advance of high prices, and with every new levy of troops, which increased the number of paupers in almost every neighborhood in the South. The reality of supporting other men's families for one, two, or three years, was quite different from that outburst of evanescent charity that flowed into the laps of the poor upon the breaking out of hostilities. The reflex influence

of the discontents in the home circle upon the poor men in the army, after a few more months when they had become tired of the service, and sought pretexts to complain, was deleterious.

We close this imperfect review of the year 1861, and await with anxiety the now undeveloped changes which the incoming year would make, with the remark that, surveying the whole field of operations, it appeared that the prospect of eventual success was high; that the obstacles in the way were not insuperable; that we had no real cause to despond, that our condition was every way as good as could have been expected; and that, with the continuation of Divine favor, we must sooner or later be a disenthralled and independent people. It was in the power of our enemies to long harass and perplex us; to lay waste our cities, destroy our fields and industrial resources, shut us out from communication with the world, crimson many a field with the best blood of our country, and literally clothe the South in mourning for her gallant dead; but we did not believe it in their power ever to subjugate us; and such was the prevailing sentiment of our people at that time.

CHAPTER VII.

DEFENCE OF GEORGIA BY STATE FORCES.

On the 6th of November, 1861, Governor Brown, on the assembling of the Legislature, in his general message, makes the following succinct statement on the subject of the

DEFENCE OF THE STATE.

"The Act of the last Legislature authorized the Governor to call out ten thousand volunteers, if necessary, for the defence of the State.

"Early in the spring I divided the State into four sections or brigades intending, if necessary, to raise one brigade of volunteers in each section, and appointed one major-general and two brigadier-generals with a view to the prompt organization of one division in case of emergency. The position of major-general was tendered to Gen. Henry R. Jackson, who has lately gained a very important victory over a greatly superior force of the enemy in north-western Virginia, who declined it in favor of Col. William H. T. Walker, late of the United States Army and a most gallant son of Georgia. I then, in accordance with the recommendation of General Jackson and the dictates of my own judgment, tendered the appointment to Colonel Walker, by whom it was accepted. The office of brigadier-general was tendered to and accepted by Col. Paul J. Semmes for the second brigade, and to Col. William Phillips for the fourth brigade. With a view to more speedy and active service under the Confederate government, General Walker and General Semmes resigned before they had organized their respective commands. About this time our relations with the government of the United States assumed so threatening an aspect that I ordered General Phillips to organize his brigade as rapidly as possible, and to throw the officers into a camp of instruction for training that they might be the better prepared to render effective those under their command. This camp of instruction was continued for about two weeks and the officers sent home to hold their respective commands in readiness. This was the condition of our volunteer organization early in June when the United States troops crossed the Potomac and invaded the soil of Virginia. Not knowing how soon a similar invasion of our own soil might be made by a landing of troops upon our coast, I ordered General Phillips to call his whole brigade into a camp of instruction and hold them in

246 DEFENCE OF GEORGIA BY STATE FORCES.

readiness for immediate action should emergencies require it. This order was promptly obeyed by the energetic and efficient officer to whom it was given. General Phillips, assisted by Adjutant-General Wayne and Major Capers, the superintendent of the Georgia Military Institute, pressed forward the instruction and preparation of the troops with great activity and energy. The troops remained in camp from the 11th of June till the 2d of August. They were a noble, patriotic, chivalrous band of Georgians, and I hazard nothing in saying, military men being the judges, that no brigade in the Confederate service was composed of better material, or was better trained at that time for active service in the field. The season having so far advanced that it was not probable that our coast would be invaded before cold weather, I tendered the brigade to President Davis for Confederate service in Virginia. The President refused to accept the tender of the brigade, but asked for the troops by regiments. Believing that a due respect for the rights of the State should have prompted the President to accept those troops under their State organization, and if any *legal* obstacle in the way of accepting a brigade existed that it should have been removed by the appointment of the general who had trained the men, and who was their *unanimous* choice, to continue to command them in active service, I at first refused to disband a State organization, made in conformity to the statute, and tender the troops by regiments; more especially as the President only demanded the two regiments which would have left the three battalions to be disbanded or maintained as battalions through the balance of the season by the State. Finally the president agreed to accept the battalions and regiments, and in view of the pressing necessity for troops in Virginia, I yielded the point, and accepted General Phillips's resignation, and permitted the troops to be mustered into the Confederate service by regiments and battalions.

"About the time these troops left the secretary of war also ordered out of the State the regiment of *Regulars* under Colonel Williams, and the 2d regiment of volunteers commanded by Colonel Semmes, both excellent regiments, well drilled and armed. This left the coast almost entirely defenceless. By that time I had permitted nearly all the arms of the State to go into the Confederate service, and it has been a very difficult matter to get arms enough to supply the troops since ordered to the coast.

"At the time Fort Pulaski was by an ordinance of our State Convention turned over to the Confederate government the number and size of the guns in the fort were very inadequate to its successful defence against a fleet with heavy guns, and, as the secretary of war made no provision for the proper supply of guns or ammunition I deemed it my duty to purchase, with funds from the State treasury, the necessary supply, which was done at a cost of \$101,521.48. In this estimate is included the freights paid on the supply and a number of heavy guns sent to other parts of the coast together with work done on gun carriages, etc. During the months of August and Sep-

tember our climate was considered a sufficient protection of our coast against invasion; but an attack was reasonably looked for so soon as the advanced stage of the season would render the health of an army on the coast secure. I had petitioned the secretary of war to send a larger force to our coast, prior to the order by which I called out General Phillips's brigade, and had offered to supply promptly any number of troops needed in obedience to a requisition from the War Department, and had mentioned five thousand as the number which I considered necessary. He replied, declining to order so many, and I felt it to be my duty to hold State troops in readiness to meet any contingency until the period when the climate would be a sufficient protection.

"Early in September I visited the coast and inspected the fortifications and batteries which had been thrown up by Confederate authority. I was fully satisfied that the number of troops upon the coast in the Confederate service was entirely inadequate to its defence, and as no requisition was made upon me for any increase of the force, I felt it to be my duty to call out State troops and increase the force as soon as possible. It is true the State was not invaded, but the danger was considered so imminent as to admit of no further delay and I was of opinion that my action was justified by both the letter and spirit of the constitution of the Confederate States.

"In the early part of September last I appointed Gen. George P. Harrison, of Chatham county, a brigadier-general, under the Act of the last session of the Legislature, and ordered him to organize a brigade of volunteers armed as far as we had the means with military weapons, and the balance with good country rifles and shot guns, and to throw them into camp of instruction near the coast where they could readily be used when needed. General Harrison has pressed forward the organization with his characteristic promptness and energy and now has a fine brigade under his command. I have also, within the last few days, appointed Maj. F. W. Capers a brigadier-general and ordered him to take command of the second brigade now about organized.

"When I permitted nearly all the State's guns to go out of the State in the summer, I entertained the hope that such number of the troops with the guns as might be needed would be permitted to return to our coast in case of necessity during the winter. Considering the danger imminent, I lately requested the secretary of war to order back to our coast five regiments of armed Georgia troops. This request was at the time declined by the secretary, who agreed, however, to supply the Confederate general in command at Savannah with one thousand of the Enfield rifles lately imported.

"As very little expenditure has been made by the Confederate government to place Georgia in a defensive condition, and as the number of Confederate troops upon the coast is not sufficient to meet the necessities of the service, and as the enemy's fleet is now off our coast, I am of opinion that the State will be compelled in a very great degree to take her own defences

248 DEFENCE OF GEORGIA BY STATE FORCES.

into her own hands, and I therefore recommend such additional legislation as the General Assembly may think necessary for that purpose together with such appropriations of money as may be required for a bold and vigorous defence of our beloved State against the aggressions of a wicked and powerful foe. Should we have to continue our troops in the field, which I think quite probable, during the winter, an appropriation of less than \$3,500,000 will be insufficient to meet the exigencies of the service for the ensuing year.

"It is true the sum asked for is large, but the emergency in which we are placed and the results which must follow our action are such, that we cannot for a moment stop to count the cost. The only question proper for discussion now is, how many men and how much money are necessary to protect the State and repel the invasion. Other States have voted larger sums than I have asked. I see by the message of Governor Harris, that the gallant State of Tennessee has appropriated and expended \$5,000,000 as a military fund within the last six months.

"How the amount of money above demanded is to be raised, is a question for the serious consideration of the General Assembly. The war tax imposed by the Confederate government, together with the expenses assumed by different counties for supplies needed by their companies in the service, will greatly increase the burdens of taxation. If we add this additional sum to that to be collected within the present year, the burden will be too onerous. On the other hand, we should not forget that the debt which we now incur, with the interest, has to be paid by us and our posterity. While we cannot avoid some increase of the public debt of the State, I think it wise that we increase it as little as possible, and that we meet a large part of our necessary expenditures by taxation.

"I therefore recommend the enactment of a law authorizing the collection, during the present fiscal year, of one million of dollars by taxation, for State purposes, and the sale of State bonds bearing such rate of interest as will command par in the market, to an amount necessary to raise the balance. If the interest is fixed at a high rate, the State should reserve the right to redeem the bonds at no very distant period. In the management of private affairs, I have generally noticed that he who is largely indebted, and keeps his property and pays heavy interest rather than sell property enough to pay the debt and stop the interest, is seldom prosperous; so it is with a State. The revolution has happened in our day; its burdens belong to the present generation, and we have no right, by a very large increase of our public debt, to transmit the greater portion of them to generations yet unborn."

THE TRANSFER OF STATE TROOPS TO THE CONFEDERACY.

The subject of maintaining a separate military force, by the State, sufficient for the defence of her coast in

addition to the large drain upon the population by troops already in the Confederate service, having been much discussed by the public journals, the General Assembly took the following action on the 16th December, 1861:—

“Resolved, By the General Assembly of Georgia, that the Governor be, and he is hereby authorized and instructed to tender to the Confederate Government the volunteer forces called into service under the law of 1860, or which may hereafter be called into service for the State defence, in companies, battalions, regiments, brigades or divisions, as may be found to be acceptable to the war department of the Confederate States; Provided, That the Confederate States will receive them for the term of their enlistment and for local defence in this State, under the act of Congress to provide for local defence and special service, approved August 21, 1861; And provided further, That, if the Confederate States shall not accept said troops, in that event the troops shall remain in service as State troops, under the terms of their enlistment; And provided further, That such tender shall be made, so far as the troops now in the State are concerned, before the 15th day of January next, and before a greater sum than one million of dollars is raised or expended as provided for in the 20th section of the general appropriation bill; And provided further, That none of said troops shall be transferred to the Confederate service without their full consent, first fairly obtained, by companies, if organized as independent companies, by battalions, if organized in independent battalions, or by regiments if organized in regiments.

“Be it further Resolved, That we earnestly recommend the Confederate Government to receive said State forces, should they assent, with all their field and general officers, and if there be no law now authorizing such acceptance we respectfully request our Senators and Representatives to urge the passage of a bill to effect so desirable an object.

“Assented to December 16, 1861.”

The following extract from the annual message of Governor Brown, the 6th of November, 1862, contains a full account of the transfer:—

“In compliance with the resolution of the General Assembly passed at its last session, directing me to transfer the State troops to the Confederacy with the consent of the troops, I ordered the question of transfer to be submitted to a fair vote of each organized body of troops, and the majority against the transfer amounted almost to unanimity. Soon after the passage of the Conscription Act, however, which passed after the expiration of the term of enlistment of part of the men, but a short time before the end of

250 DEFENCE OF GEORGIA BY STATE FORCES.

the term of much the larger portion of them, the Secretary of War informed me that all the State troops between 18 and 35 years of age must go into the Confederate service. At that time an attack upon the city of Savannah was daily expected, and for the purpose of avoiding conflict and collision with the Confederate authorities in the face of the enemy, I agreed to yield the point, and I immediately tendered the State army to Brigadier-General Lawton, who then commanded the Military District of Georgia, Major General Henry R. Jackson, who commanded the State troops, having retired from the command to prevent all embarrassment. General Lawton accepted the tender, and assumed the command of the troops. The claim made by the Secretary of War did not include those under 18 or over 35 years of age, but it was thought best to tender the whole together, as the detachment of those between 18 and 35 from each organization would have disorganized the entire force.

"While referring to the subject, I feel it a duty which I owe to the gallant officers and brave men who composed the State army to say, that they were, at the time of the transfer, as thoroughly organized, trained and disciplined, as probably any body of troops of equal number on the continent who had not been a much longer time in the field. They had performed without murmur, an almost incredible amount of labor in erecting fortifications and field works necessary to the protection of the city, and had made their position so strong as to deter the enemy, with a force of vastly superior numbers, from making an attack. While they regretted that an opportunity did not offer to show their courage and efficiency upon the battle-field, they stood, like a bulwark of stout hearts and strong arms, between the city and the enemy, and by their chivalrous bearing and energetic preparation, in connection with the smaller number of brave Confederate troops near, saved the city from attack and capture, without bloodshed and carnage.

"It is but justice to Major-General Jackson, that it be remarked, that he had, with untiring energy and consummate ability, pressed forward the preparation of the defences and the training of the army, and that the people of Georgia owe much of gratitude to him for the safety of the city of Savannah and its present freedom from the tyrannical rule of the enemy. There is not, probably, an intelligent, impartial man in the State who does not regret that the services of this distinguished son of Georgia should not have been properly appreciated by the Confederate authorities, and that he should not, after the Georgia army was transferred, have been invited by the President to a command equal to his well known ability and merit. This was requested by the Executive of this State, which request was presented to the President by her entire delegation in Congress.

"It is also due Brigadier-Generals George P. Harrison, F. W. Capers, and W. H. T. Walker, that their names be honorably mentioned for enlightened generalship and efficiency as commanders of their respective brigades. The

Executive of the State, appreciating the merits of these officers, asked for positions for them as commanders in the armies of the Confederacy, but neither of them, so far as I know, has been tendered any command. If this might be excused as to Generals Harrison and Capers, on the ground that they were not graduates of West Point and old army officers, though one of them has a thorough military education, and the other is known to be a most valuable, energetic military man, having the confidence of the whole people of the State, this excuse does not apply in the case of General Walker, who is a son of Georgia, a graduate of West Point and an old soldier, who has shed his blood in his country's service on many a battle field. His ability and gallantry are acknowledged by all who admire cool courage and high-toned chivalry. But no one of the Georgia generals who had commanded her State army has since been invited to a position, and even this gallant old soldier is permitted to remain in retirement, while thousands of Georgia troops who entered the service of the Confederacy under requisitions upon the State, and whose right, under the Constitution, to be commanded by generals appointed by the State is too clear to admit of doubt, are thrown under the command of generals appointed from other States, many of whom have had neither the experience in service, nor the distinction which General Walker has, while confronting the enemies of his country, purchased with blood upon the battle field."

RAISING REVENUE BY THE STATE.

In the annual message of November 6, 1861, the Governor made the following recommendation as to the methods of raising revenue :

SALE OF STATE BONDS.

"The Act of the last General Assembly of the State which appropriated one million of dollars as a military fund for the year 1861, made provision for raising the money by the sale of six per cent. State bonds. At the time of the passage of the Act our six per cent. bonds were above par in the market and were eagerly sought after by capitalists. Soon after the dissolution of the United States Government, bonds and stocks of all kinds were greatly depreciated in the market and it became impossible to raise money at par on any securities bearing only six per cent. interest. The Government of the Confederate States fixed the rate of interest on its bonds at eight per cent. and persons having money to invest preferred these bonds to the six per cent. bonds of any State. I was consequently unable to raise money on the bonds bearing the rate of interest fixed by the statute without putting them upon the market at a considerable discount. After some negotiation most of the banks of this State agreed, each in proportion to

the amount of its capital stock, to advance to the Treasury at seven per cent. such sum as might be necessary to conduct our military operations. This advance was made upon a statement placed upon the Executive Minutes and a copy forwarded to each, by which I agreed to recommend the Legislature when assembled to authorize the issue of seven per cent. bonds to each for the sum advanced, payable at the end of twenty years, the interest to be paid semi-annually and the State to reserve to herself the right, at her option, to redeem the bonds by paying to the holders the principal and interest due at the end of five years. Upon this agreement, a copy of which is herewith transmitted together with a statement of the sum advanced by each bank, the wants of the Treasury were relieved and such sums have been advanced from time to time as the necessities of the State required. It is proper that I mention in this connection that the Central Railroad and Banking Company through its able and patriotic president, the Hon. R. R. Cuyler, tendered to the State one hundred thousand dollars and took six per cent. bonds in payment before any other bank had acted and at a time when money could not be commanded in the market at that rate. This conduct was alike liberal and patriotic and was followed by agreement on the part of several other banks, each to take ten per cent. upon its capital stock, to which the six per cent. bonds were issued accordingly. I do not think it right that these last named banks should be permitted to sustain loss on account of their liberality, and I therefore recommend that the six per cent. bonds issued to each bank in this State on account of these sums advanced, be taken up, and that seven per cent. bonds be substituted in their place, and also that seven per cent. bonds be issued to all the other banks for the sums advanced by them in accordance with the agreement upon which they made their respective advances. This would place all the banks upon an equality and do justice to each of them. The part of the loan which has been taken amounts to \$867,500. Of this sum \$25,000 of the six per cent. bonds were issued to Sharps Manufacturing Company of Connecticut, in part pay for carbines purchased from the company, leaving the sum of \$842,500 taken by the banks of this State upon which only \$305,000 of bonds have issued, the balance having been advanced without the issue of bonds upon the contract above mentioned. While nearly the whole amount of the military appropriation had been expended prior to the end of the fiscal year, the receipts from the State Road and from other sources have been such as to meet the ordinary expenses of the government as well as the extraordinary appropriations of the last Legislature; also to pay part of the drafts upon the military fund and to leave in the Treasury at the end of the fiscal year a net balance of \$324,099.86. As this sum in the treasury was not appropriated for military purposes, but is mostly appropriated for other purposes and undrawn, I had no right under the constitution to draw upon it, and as the military fund was lately exhausted and the perilous condition of the State required large expenditures and prompt action for the defence of the coast,

it became necessary for me to negotiate a further loan with the banks of Savannah to meet the emergency till an appropriation could be made. This I thought better than to convene the Legislature in extra session a very short time previous to the regular session. Under this arrangement I have received from the banks of Savannah through G. B. Lamar, Esq., whose services have been of great value to the State both in New York prior to the secession of Georgia from the old Union, and in Savannah since that time, such sums as the service required, for the repayment of which it will be necessary to provide out of the military fund to be appropriated at the present session. The amount advanced is not yet large, but it will become necessary to increase it daily till an appropriation is made to meet the heavy expenditures now being incurred to sustain our troops in the field. I earnestly solicit for this subject the early attention of the General Assembly.

TREASURY NOTES.

"It is possible the State might find it difficult to raise by the sale of bonds, the portion of the money above recommended to be raised in that way for the ensuing year. Should it be found that such is the case, I recommend that the Treasurer of this State be authorized to issue, under the order of the Governor, Treasury notes, similar to those issued by the Treasury Department of the Confederate States; and that said notes be made receivable in the payment of taxes, or any other debt due the State, or the State Road.

"And for the purpose of giving these notes credit as currency, let provision be made by law, that any person presenting at the Treasury five hundred, or one thousand dollars of them, shall be entitled to have and receive for said notes a bond of the State of Georgia, for the same amount, bearing eight per cent. interest, payable semi-annually, the principal to be paid at the end of ten years; with the like privilege for each additional amount of five hundred or one thousand dollars presented.

"This would place the notes upon a basis of security that the most cautious could not suspect, and would doubtless enable the State to raise such sums as her necessities may require. With this security, it is believed that our banks could not fail to receive the notes on deposit, and that they would be received in payment of debts, and answer all the purposes of currency. As the faith of the State would be pledged for their redemption, no higher security would be asked by her citizens."

In the annual message of November 6, 1862, the Governor makes the following statement in regard to those notes:—

"The Appropriation Bill passed at your last session made it my duty, in case there should not, at any time, be money in the Treasury to meet any ap-

propriation, to raise it by the sale of State bonds, or by issuing Treasury notes, as I might think best. In each case where I had the discretion, I did not hesitate to decide to issue Treasury notes, bearing no interest, in place of bonds bearing interest; and I have found these notes not only current, but in great demand as an investment. The whole amount of Treasury notes issued is \$2,820,000.

"The notes are payable in specie or eight per cent. bonds, six months after a treaty of peace, or when the banks of Augusta and Savannah resume specie payments if before that time. These notes have generally been laid away as a safe investment by banks and others into whose hands they have fallen; and it is a rare occurrence to see one in circulation. Should it become necessary, as it probably will, to extend the issue to meet part of the liabilities of the Treasury for the present fiscal year, I respectfully recommend that no alteration be made in the form of the notes, as there is on hand a very considerable amount of the printed bills that can soon be issued without expense, which would be useless in case of any change in the present form, and it would cost great delay and expense to procure paper and have others prepared.

"The only objection insisted upon against the issue of Treasury notes, in place of the sale of bonds to meet the demands on the Treasury, is, that the issue of a large amount of notes to be circulated as currency, depreciates the value of paper currency in the market. This is unquestionably true, as evidenced by the present state of our currency. But it is equally true that enough of paper currency must be issued, in the present condition of the country, to meet the demand. Suppose the State needs a million of dollars, and puts her bonds in the market to raise it, and receives paper currency in payment for them, it is quite evident that the Confederacy, or the banks, must issue a million to meet this demand, in addition to the issue they would otherwise make for other purposes; and the same depreciation growing out of a redundancy of paper currency follows, which would happen, were the State to issue a million of dollars in her own notes, and thus meet her own demand. The question is not one of the depreciation of the currency by over issues of paper, as the number of dollars in paper currency to be placed upon the market is the same in either case, but it is simply a question of *interest*. Shall the State use her own notes, which pass readily as currency without interest, and are generally laid away as an investment, or shall she pay interest to a corporation for the privilege of using and circulating its notes, founded upon a less secure basis than her own? In my opinion there is no room for hesitation in making the decision in favor of Treasury notes. The amount of interest saved to the Treasury in one year at seven per cent. upon the issue of notes already made in place of bonds, is \$162,400. To this might have been added the further sum of \$170,870, had I been authorized by the statute to issue and use Treasury notes in place of bonds to meet the Confederate war tax. This statute was a special one for a special purpose, however,

and confined me to the use of bonds without giving me discretion to issue Treasury notes."

In the annual message of November 6, 1862, the Governor makes the following statement as to the disbursement of the five million appropriation :

"Of the five millions of dollars, appropriated at your last session for military purposes, only \$2,539 290.25 have been drawn from the Treasury during the fiscal year. Of this sum \$350,000 has been returned by Lieut.-Col. Jared I. Whitaker, Commissary-General, and \$50,000 by Lieut.-Col. Ira R. Foster, Quartermaster-General, and \$58,286 by Major L. H. McIntosh, Chief of Ordnance, for stores in their respective departments, sold to officers under the army regulations, and to the Confederacy after the State troops were transferred. The amount of the appropriation which has been used is, therefore, \$2,081,004.25. Of this sum \$100,000 was expended in payment for arms purchased in England prior to your last session; and \$50,000 for iron to be used in fortifications and upon the gunboat called the 'State of Georgia.' This boat was built under the supervision of Major-General Jackson while in command, and completed after he retired. The balance of the money for its construction was contributed by the cities of Savannah, Augusta, and other corporations, by soldiers, and chiefly by the ladies of this State, who have shown since the commencement of our struggle, on all proper occasions, a liberality and patriotism worthy the most distinguished matrons of the Revolution of 1776. For support, equipment, pay and transportation of two companies now in service as bridge guards on the State Road, \$10,000. This leaves \$1,921,000.85, which, together with a special appropriation of \$100,000, was expended upon the Georgia army, and for other contingent military purposes. It will be seen, however, by reference to the reports of the Quartermaster-General and the Chief of Ordnance, that very considerable sums were expended for the purchase of horses, artillery, etc., which were transferred to the Confederacy with the Georgia army, for which no payment has been made to the State. These sums, with contingent military expenditures, when deducted from the above mentioned sums will leave the whole cost of the Georgia army of nearly 8,000 men, for nearly six months, including pay, clothing, subsistence, transportation, and every other expense, a little short of \$2,000,000."

CHAPTER VIII.

GOVERNMENT OF GEORGIA IN RELATION TO THE WAR.

This State is necessarily conspicuous in any full and fair narrative of the achievements of Southern arms during the war with the United States ; and while not feeling summoned by any charges or implications against the gallantry and heroism of her officers and soldiers, and not desiring to give them undue or unjust prominence among the forces so nobly representing other States of the Confederacy, where all achieved so much to perpetuate their fame, ample justice is attempted in other parts of our work to the noble sons of Georgia. It is perhaps impossible to set forth the number of troops the State had in the service. In the belief of its truth I have stated that she sent a larger number in proportion to white population than any State north or south. This fact, if true, is referred to, not to cast the remotest reflection upon any Confederate State. For they all in view of the circumstances surrounding them performed their duty nobly in furnishing troops, and the conduct of their citizen soldiers. But it is a part of the means at command of repelling charges that have been made against the administration of the State, to the effect that it hindered and impeded the Confederate government in the prosecution of the war. Such a charge or implication aimed at her Governor, and embracing her people who at the ballot box, at the home precincts, and at the voting places in

the army sustained him, calls for special notice, and such is the purpose of this chapter.

As the sequel will disclose, there was conflict of judgment between Governor Brown and President Davis, as to the method of raising forces in the State for the Confederate service; some of the troops were organized, the officers commissioned, and the regiments turned over by the State to the Confederacy. The government authorized men to raise regiments, legions, battalions, etc. Aspiring men organized companies of infantry, artillery, cavalry, and with other denominations, and were received into the Confederate service. . By acts of the Confederate Congress the President received many organizations, and by the enrolling and conscript officers, large numbers of troops who were distributed among the commands of this and other States. Some of the small commands were organized with troops from other States.

Even during the war the matter of Georgia troops was of such uncertainty of identification, as to their number and organizations, that the Governor, acting under the authority of the Legislature, detailed the writer of this treatise to make a roll of Georgia troops in the Confederate service. On arriving at Richmond, the demands on the war department in June, 1863, were such, in consequence of army movements at that time, as to render the mission impracticable. I was recalled and, disasters following rapidly, the matter was delayed and, on account of the downfall of the Confederacy, was never undertaken afterwards.

The regiments of the State organized before and after the war began, under the State authority, and turned over to the Confederacy, and those raised in the State by Confederate authority, the numerous battalions and companies

aggregated and conscripts raised in the State and sent to commands already in the field, and the troops employed in the State service under the command of the Governor, and used in the common defence, amounted to troops enough for about one hundred average regiments. The State had only a little upwards of 100,000 voters at a full election, and a population of 588,000 whites, and 462,000 blacks at the opening of the war. It is a truth to be noted that the regiments raised and turned over by the Governor, and those organized by Confederate authority in the State, were generally full in numbers, and of the material that compared favorably with the troops of other States. And still more noteworthy is the fact which is beyond dispute, that Georgia remained nearly to the last within Confederate lines, and her soldiers did not in large numbers retire to their homes, and that in the main her regiments were kept fuller and better recruited than those from some of the other States. It would be untrue to assume that there were not Georgia stragglers and deserters, as there were from all the States, in large numbers toward the close of the war, when the *morale* of the army was affected by the conquests and advances of the Union forces, the defeats and disasters of ours, and the generally failing fortunes of the Confederacy and loss of the grounds of hope for final success, and the alienation of the feelings of the people by the course of the Confederate Government and her authorities, civil and military. But it is true, in fact, that a larger proportion of her troops remained at the front, and in line, than from several other States, if not all of them.

It is not true, in fact, that the civil administration of this State obstructed the Confederacy or hindered its plans and enterprises, or its success, by any lack or with-

holding of her quota of the means of war, either in soldiers, quartermaster and commissariat stores, stock, provisions, clothing, medical aid, fighting men, or ability in military officers, or in the civil departments of the Confederate government.

If it were, on the other hand, asserted that the ruling powers of the Confederacy, in the civil department, did not obstruct, hinder, delay, and finally defeat the grand purposes of the revolution, and necessitate the downfall of the Confederacy, in part, by the measures and policy wherein President Davis differed in judgment from Governor Brown, and about which they had controversy during the war, it would be to ask observing and thinking people to overlook and disregard the direct relation between cause and effect—the alienation of the people in part from the government; the abatement of their ardor in the cause of Southern independence by the manifest discriminations and injustice of the Confederate government, and its apparent disregard of the principles of constitutional law, and of equality of rights—for the love of which they had gone into the revolution.

On the other hand, with the advantages of a full retrospect, and a better knowledge of our own and the resources of the government at war with us, and the feelings and influences of foreign nations, it would be speculative to argue that even if the views and policy of Governor Brown had been adopted and carried out by Mr. Davis, we should have achieved independence—as many of the most discerning people believe. Hence, we address ourself to the task of faithfully and fairly presenting the facts and truths of the matter between them.

President Davis and Governor Brown had been lifelong Jeffersonian Democrats, and therefore State rights men.

They had been, in all the controversies between national and local parties, growing out of the subject of slavery, ardent pro-slavery and southern rights Democrats; and both favored the measures and policy on the part of their respective parties and States which led to withdrawal, and the organization of the Confederate government, and which invited or provoked the war, as the Federals understood the question; and both carried all their talents, moral courage, energy and patriotism into the contest. After the steps had been taken, and war had resulted, both saw and comprehended its magnitude, its destructive power, and the dangers to which the South was exposed; and both realized that their own, and the fortunes and happiness of their people, depended upon the success of the revolution. One was President of the Confederate States; the other, Governor of Georgia—a very important member of the new union, in geographical position, resources in men and money, and in the *morale* of the government resulting from the vast influence of her public men over the people of the South. They were men of strong mind—self-confident and self-reliant, men of strong and decided convictions, and settled opinions after investigation; and both were executive in talents, and decidedly so in disposition; with this difference between Brown and Davis, and between him and all the public men of the South—his mind acted with more rapidity and precision, and he never grew tired or fagged; and while he never lacked for expedients, and his mind was ever fruitful of plans, he never adhered to or followed them after their failure was manifest; but like Davis, until convinced of mistake or error, he adhered firmly to his opinions. They are alike endowed with firmness by nature, which has been largely cultivated in practice.

They differed in opinion, and therefore in practice, as to the matters publicly controverted between them; and co-operated wherein they agreed, both having the same general purpose and aim—the political independence of the Southern States, and the establishment of the new Confederacy. It cannot be shown that in any matter touching the war, that either offered opposition to the other, except in the vital and important matters wherein they differed in judgment; or, on the part of Governor Brown, that he ever refused or neglected to co-operate with the President, heartily; and aid in every way in his power, in any and all matters wherein they agreed; on the contrary, he was in the constant habit, in public and private, to friends and foes of the President, of vindicating and defending his policy and action, wherein he agreed with him.

The controversy was based on differences of opinion on important principles, and on the part of Governor Brown was made entirely public through the press of the South. He stood on the correctness of his judgment; acted upon the conclusions then drawn, as did the President; and each must abide the positions then chosen, in the calm judgment of those who come after them.

The matters do not rest in vague human memory, but in records that time has not changed.

Before presenting these controversies, we recur to the action of Governor Brown at home, and of the State under his lead and advice.

As seen heretofore, there was conflict between the Governor and the State Legislature on numerous matters of State policy relating to the civil administration, from the time he came into office up to the time when war became imminent. Then the spirit of the Governor was the

spirit of the great people who leaped into solid column under his lead, and sustained his action and seconded his plans, in full confidence of his ability and wisdom as well as patriotic devotion to their rights and happiness.

Under his advice, the General Assembly as before stated, upon the call of a State convention and before the State seceded, appropriated \$1,000,000, and placed the same at his disposal as a military fund ; and when that body called a convention to be elected by the people to determine what should be the course of the State, in view of the triumph of the Republican party in the election of Mr. Lincoln, the public confidence in Brown was so strong and general that his opinions had, perhaps, more potency over the Southern mind than any of our leaders. Men of the Legislature, not before in sympathy with the Governor, united with his ardent admirers and friends in calling out his opinions of the situation, and his counsel and advice to the people.

His letter in response, written with great zeal as well as masterly ability, was extensively published throughout the South, and exercised a very powerful influence on the people of all the slaveholding States.

In the session of November, 1861, when the war had progressed a few months, under his recommendation \$100,000 were placed at his disposal for State troops, and \$5,000,000 appropriated as a military fund for the public defence.

In reply to all possible charges or implications of a want of co-operation and support on the part of Georgia, I make the following extract from the annual message of Governor Brown, of 6th November, 1861 ; showing his extraordinary promptness and energy in the first half-year of the war :—

"The Secretary of War has frequently made requisition upon me as the Governor of this State for troops; these I promptly furnished. Thirty regiments and three battalions of State troops have gone into the service of the Confederacy. Of this number twenty-one regiments and three battalions have been armed, accoutred, and equipped by the State. We now have accepted and nearly all in the field of *State troops*, not in Confederate service, seven regiments and three battalions, which, with the help of the country arms in use, are being fully armed, equipped, and accoutred by the State. We also have in service from Georgia ten regiments, which have been accepted by the President independent of State authority, making thirty-seven regiments and six battalions of State troops, and ten regiments of independent or Confederate troops. Counting two battalions as a regiment, Georgia has therefore in service fifty regiments, forty of State troops and ten independent. Including a few country arms, she has armed, accoutred, and equipped thirty of these regiments."

And, as will appear, requisitions made after that time were promptly responded to, and more than filled.

Under his recommendation the Legislature assumed the payment of Georgia's part of the Confederate war tax, and provided for raising and paying the same by the State, thus keeping the vexatious and demoralizing tax gatherer of the Confederacy from the doors of the people then fully united and intent on the public defence. To meet and remedy a most fearful evil in the rear of the armies, acting under his advice the Legislature took the lead of all the States by making large appropriations for the relief and support of indigent families of Georgia soldiers in the field; and for the manufacture of salt for the people, then apparently about to suffer generally for its want, on account of Federal blockade; and for the aid and relief of our soldiers in the hospitals of the armies; and for the manufacture and distribution of cotton cards among the women of the State to enable them to supply clothing at home, and for their sons, husbands, and brothers in the service; for the manufacture of shoes for the barefooted troops, and the supply of blankets and medi-

cine, and other necessities to sustain them in the struggle ; and for the manufacture of arms and ammunition, then a matter of the most critical and pressing importance to the Confederacy. We had fighting men in redundancy compared with the lack of arms.

Brown was wiser and more sagacious, and therefore a stronger stay and support to the Confederacy than the other Southern governors, in adopting the policy of reserving the power and control of the State government, and the means of preserving order and executing the laws of the State, as well as other public emergencies that might arise requiring prompt action to repel invasion from the State. The Legislature, responding to his advice and recommendations, placed State troops and arms at his disposal and the militia not engaged in Confederate service, which he organized in addition to the regiments and battalions of State troops in active duty under his command, and upon the pay of the State.

By this policy he was enabled to keep up the *morale* of the State, preserve the respect and confidence of the people at home and her soldiers in the field, to maintain the control of the white over the black race, and keep the latter in the fields to produce provision-supplies in lieu of the white men who were bearing arms. He was thus able to exercise the power and influence necessary to meet and promptly respond to every requisition on this State for the Confederate service in addition to the men in arms in State service, aiding in the common cause and enterprise of repelling the enemy and guarding the approaches to our common country.

While he protested against the conscript acts and policy, he did not oppose the enrolment of private soldiers of the militia which did not break up its organization ;

but refused to allow the officers enrolled and ordered away; refused to allow the State organization to be broken up by conscripting her civil officers, as was done in other States. He refused to yield the power of the State of which he was Executive, for enforcing peace and tranquillity at home, and for responding to the calls of the Confederacy, lawfully made upon her; and for this he was censured—censured for a policy which, firmly as well as wisely adhered to, rendered this State more efficient to the last in upholding the Confederacy. In his first annual message, after hostilities began, and when the issue of battle had been accepted on both sides and was fiercely maintained by Federals and Confederates, he concluded his elaborate review of the situation as follows:—

“From the foregoing reflections, it naturally follows, that our whole social system is one of perfect homogeneity of interest, where every class of society is interested in sustaining the interest of every other class. We have all the harmonious elements necessary to the perpetuity of that republican and religious liberty bequeathed to us by our fathers; with none of the distracting and conflicting elements which must destroy both in the Northern States, and which have already precipitated the country into a bloody revolution, and attempted to hurl to the ground the fairest structure ever dedicated to liberty on the face of the globe. To sustain this priceless heritage is the highest earthly duty of the Christian and the patriot. Ruthless and bloody hands have been laid upon it. To wrest it from them may cost hundreds of millions of treasure, and many thousands of the most invaluable lives of the South. But he who would stop to count the cost, would do well to ask himself, What is my property worth when I am a slave? or, What is my life worth, if by saving it, I must transmit a heritage of bondage to my children? If we are conquered, our property is confiscated, and we and our children are slaves to Northern avarice and Northern insolence. Sooner than submit to this, I would cheerfully expend in the cause the last dollar I could raise, and would fervently pray, like Samson of old, that God would give me strength to lay hold upon the pillars of the edifice, and would enable me while bending with its weight, to die a glorious death beneath the crumbling ruins of that Temple of Southern freedom which has so long attracted the world by the splendor of its magnificence.”

And such was the ring of metal from his pen and tongue in public and private, to the close of the struggle. It abounds in all his messages and State papers, and is reflected in all his official action through the entire war.

I have said his mind never tired, and his energies never fagged; it is literally true that he was a man of unremitting toil, day and night, barely taking time for refreshment and sleep. And nothing in his power or in the range of his public duties was allowed to be neglected or delayed.

He pressed upon the Legislature at every meeting the claims of the Confederacy; and constantly on the Confederate authorities, high and low, the claims of Georgia and the rights of her soldiers and people.

It is fresh in the memory of the writer, impressed there by persistent and unremitting toil in his department, that no claim, or appeal, or request to him, was allowed to be overlooked or neglected. The sick and wounded in the distant hospitals, the illiterate and poor in the remotest parts of the State, and often of other States, sent their doleful complaints by thousands. They all had to be read and promptly and satisfactorily answered, as well as all letters from officials and influential people. He performed immense quantities of the reading and the labor of writing—in the midst of which I came then to the conclusion, which must have been erroneous, that he had the faculty of giving minute and comprehensive attention to two subjects precisely at the same moment of time. It arose from having frequently applied to him at his table with letters on new subjects—read them and asked for instructions when he was engaged in reading letters or actually writing—and receiving immediate directions, showing

that he had minutely noticed and comprehended every point in what had been read to him.

The people and the soldiers, and especially their families at home, loved and almost worshipped "Joe Brown," as he was called, while the Confederate authorities clamored for the supreme control, and the emasculation of the power and influence by which he was enabled to render them the greatest and most valuable aid and support.

And while he differed in judgment from President Davis and his Cabinet and boldly made known his opinions, he never relaxed his energies, or abated his zeal, or changed his purposes of political independence for the Confederacy, and never showed the white feather or the slightest signs of yielding to the common foe as long as the Confederate Government had an army or civil organization or a purpose and aim to protract the struggle.

And when the contest was ended and the revolution had proved to be a stupendous failure, he exercised, as we shall see in the sequel, the same bold and fearless mind and judgment in advance of his own people, indicating the wisest and best course for a conquered people. But it was by far easier to lead a patriotic and exasperated people into war and guide their counsels amid its waste and destruction than it proved to be to calm the passions of a depleted, impoverished, subjugated, insulted, and oppressed constituency who had passed under the yoke and for whom he no longer had the power to implead or enforce respect and protection.

We recur to the matters of controversy between the Confederate President and the Governor of Georgia.

The public policy of the President and Cabinet, and of the Congress, is set forth in the following extract from the annual message of Governor Brown, in which his ob-

jections, and the reasons therefor, are stated in the matter of raising and organizing troops for the Confederate armies :—

“The Constitution formed by the Convention, and since adopted by each of the eleven Confederate States, is the old Constitution of the United States amended and improved in such particulars as the experience of three quarters of a century had shown to be necessary. Under this Constitution the new government of the Confederate States is now in successful operation and is maintaining itself with great ability both in the Cabinet and in the field. The action of our Congress has been generally characterized by prudence, wisdom and forethought. While I take much pleasure in making this statement and in yielding to the new government my hearty and cordial support, the candor, which I would exercise towards a friend, compels me to say, that in my judgment, two important acts passed by our Congress are hard to reconcile with the plain letter and spirit of the Constitution.

“The 16th item of the 8th section of the 1st article of the Constitution of the Confederate States is in these words: ‘Congress shall have power’ ‘to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the Confederate States, *reserving to the States respectively the appointment of the officers* and the authority of training the militia according to the discipline prescribed by Congress.’ The first section of the act of the Congress of the Confederate States, approved May 8, 1861, authorizes the President to accept the services of volunteers who may offer their services without regard to the place of enlistment. The second section of the act is in these words :—

“‘That the volunteers so offering their services may be accepted by the President in companies to be organized by him into squadrons, battalions, or regiments. The President *shall appoint all field and staff officers*, but the company officers shall be elected by the men composing the company; and if accepted, the officers so elected shall be *commissioned by the President*.’

“The first section of the act approved May 11, 1861, is in these words :—

“‘That the President be authorized to receive into service such companies, battalions, or regiments, either mounted or on foot, as may tender themselves and he may require, *without the delay of a formal call upon the respective States*, to serve for such term as he may prescribe.’

“And part of the third section of said act is in these words :—

“‘The President shall be authorized to *commission all officers entitled to commissions* of such volunteer forces as may be received under the provisions of this act.’

“The language of our Constitution is the same that is used in the Constitution of the United States, and it is believed that the term *militia*, as there used when applied to troops, was always understood to be in contradistinc-

tion to the term *regular*. The Constitution gives to Congress the power to 'raise and support armies.' Under this authority our *regular army* is enlisted and its officers are appointed by the government under whose authority it is raised. In this case there is no restraint upon the power of Congress, and it may therefore confer upon the President the power to appoint all the officers. In the case of the *militia*, which term includes volunteers and other military forces not embraced in the *regular army*, the same unrestrained power is not granted. While the States have delegated to Congress the power of organizing, arming and disciplining the militia, and of governing such part of them as may be employed in the service of the Confederacy, they have *expressly reserved* to themselves the *appointment of the officers*, and have therefore expressly denied to Congress the right to confer that power on the President or any other person. Notwithstanding the express reservation by the States of this power, the acts above referred to, authorize the President to accept the volunteer militia of the States independently of State authority and to commission every officer of a regiment from a third lieutenant to a colonel. This act, by vesting in the President the power of *appointing the officers* of the militia, which power the States have carefully and expressly reserved to themselves, enables him to control, independent of State authority the whole consolidated military force of the Confederacy, including the militia as well as the regulars. If this practice is acquiesced in, the Confederate government, which has the control of the purse with the power to tax the people of the States to any extent at its pleasure, also acquires the supreme control of the military force of the States, and with both the sword and the purse in its own hands may become the uncontrollable master instead of the useful servant of the States.

"I am not aware of any case in which the government of the United States prior to its disruption ever claimed or exercised the power to accept volunteer troops, commission their officers and order them into service, without consulting the Executive authority of the State from which they were received. The idea does not seem ever to have occurred to President Lincoln, so long as he held himself bound by any constitutional restraints, that he had any power to accept troops from the border States to assist in coercing us into obedience without the prior consent of the Executives of those States. Hence he made his call upon them for troops and met a repulse that turned the tide of popular sentiment in our favor in most of those States and redounded greatly to the salvation of the South. During the war of 1812, when Massachusetts refused to send her troops out of the State, the plea of *necessity* might have been set up by Mr. Madison as a justification to some extent for such an encroachment, but neither he, who had participated so largely in the formation of the Constitution, nor the Congress in that day seemed to have felt justified even by necessity in adopting any such measure. In the present instance, the plea of necessity could not be set up, as it will not be pretended that the Executive of any State in the Confeder-

acy had refused to respond promptly to each and every call made upon him for troops. Even now, I believe it may be truly said, that the number required in each and every case of each and every Executive has been promptly furnished.

"These acts have also been very inconvenient in practice.

* * * * *

"On several occasions, after I have put companies under orders for the purpose of filling requisitions made upon me, I have learned that these companies had previously left the State without my knowledge, which caused delay growing out of the necessity of ordering in other companies to fill their places. So long as there are two recognized military heads in the State, each having the power to order out the militia without informing the other of the companies ordered by him, conflict and confusion must be the inevitable result. Again, as these independent regiments receive their commissions from the President, and leave the State without official notice to the Executive, there is no record in Georgia which gives the names of the officers or privates or shows that they are in service from the State. The only knowledge which the Executive has of their being in service is such as he derives from the newspapers or other channels of information common to any private citizen of the State.

"But I fear that these acts may, in the end, entail upon us or our posterity a greater misfortune than the mere practical confusion and inconvenience growing out of them. As I have before remarked, they give to the President the control of the militia of the States and the appointment of the officers to command them, without the consent of the States. This is an imperial power, which in the hands of an able, fearless popular leader, if backed by a subservient Congress in the exercise of its taxing power, would enable him to trample under foot all restraints and make his will the supreme law of the land. It may be said in reply to this, that the acts only give the President the power to accept the services of such of the militia of the States as volunteer to serve him. This is true. But we cannot shut our eyes to the fact, that in times of high political excitement, when the people are divided into parties, a fearless favorite leader having this power, and in possession of all the public arms, munitions of war, forts, arsenals, dockyards, &c., belonging to the government, might be able to rally around him such force as would give him a fearful advantage over those who might attempt to prevent the accomplishment of his designs. Such is my confidence in the present able Executive of the Confederate States, and so thoroughly am I convinced of his lofty patriotism and his purity of purpose, that I entertain but little fear that he would abuse even absolute power or subvert the liberties of his country for his own personal aggrandizement. This is no reason, however, why I should consent to see absolute power placed in his hands. While I might not fear him as a dictator, I would never consent that he be made dictator. His term of office is limited by the Constitution and must expire with his

new term at the end of six years. His immediate successor, or some future Napoleon, occupying the same position, may be less pure and patriotic, and with the precedent established and approved by the people, placing this vast military power in his hands, he may make the presidency a stepping stone for the gratification of his unholy ambition, and by the use of the military at his command, may assume the imperial robes and seat himself upon a throne.

"To guard effectually against usurpation, sustain republican liberty and prevent the consolidation of the power and sovereignty of the States in the hands of the few, our people should watch, with a jealous eye, every act of their representatives tending to such a result, and condemn in the most unqualified manner every encroachment made by the general government upon either the *rights* or the *sovereignty of the States*."

The Governor also differed from the Confederate President on the subject of the right of Georgia troops to elect officers. His views and those of the government are well stated in the following extract from the annual message of November 5, 1863:—

"In this connection I earnestly invite the attention of the General Assembly to the correspondence (copies of which are herewith forwarded) between the Secretary of War and myself in reference to the right of Georgia's volunteer militia in the military service of the Confederacy to elect their own officers. And it is proper that I here remark that since the correspondence was ended, even the right of the home guards to elect to fill vacancies is also denied, and the power of appointing the company officers as well as the field officers is claimed by the President.

"The Constitution gives Congress power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be *employed in the service of the Confederate States*, reserving to the *States* respectively the *appointment of the officers*. The right of the State to appoint the officers to command her militia or any part thereof, when employed in the service of the Confederate States, is not left to inference, but is reserved in plain, simple language, which admits of no two constructions. The State, by her constitution and laws, has provided how she will make these appointments. All militia officers are to be elected by the people subject to do military duty under them, and the officers of the volunteer militia are to be elected by the members of the volunteer organization, to be commanded by the officers when elected, and all vacancies are to be filled in the same way. In a word, the *State appoints* those who are *elected* by the persons to be commanded.

"If the militia of Georgia, or any part thereof, is now employed in the service of the Confederate States, no one can question the right of the State, as reserved in the Confederate constitution, to appoint the officers to command

them, and the right of the troops, under the constitution and laws of the State, to have those elected by them appointed or commissioned to command them, is equally unquestionable.

"By the militia of a State, I understand the framers of the constitution to have meant the arms-bearing people of the State. That they intended to use the term in this sense is evident from the fact that they speak of the militia as in existence at the time they are making the constitution, and confer power upon Congress, not to create a new militia, nor to organize that already in existence, but to *provide for organizing* the militia. In other words, they gave Congress power to provide for forming into militia organizations the arms-bearing people of the respective States. Had the constitution given Congress power to organize the militia without any qualifying words, it would have had power to appoint officers to command them, or to authorize the President to appoint them, as the militia cannot be organized without officers. The language used was well weighed and carefully guarded. Power was given to Congress to *provide for organizing* that already in existence without sufficient organization—the militia or arms-bearing people of the States. When Congress has provided for the organization, and the States have organized the militia, Congress may authorize the President to employ them in the service of the Confederate States, but, in that case, the States expressly reserve to themselves the right to appoint the officers to command them, and Congress cannot, without usurpation, exercise that power or confer it upon the President.

"The President has made repeated calls upon this State for organized bodies of her troops for Confederate service, and his requisitions have invariably been filled by the tender of militia organized and officered by the State, and they have been accepted by him with their officers as organized. In addition to this, the conscript act has been passed, which has made all persons between 18 and 45, (except those exempted by the act,) subject by compulsion to Confederate service. This act has been executed in Georgia. In contemplation of law, every person in this State between 18 and 45, not specially exempt, is now in Confederate service; and the fact corresponds very nearly with this contemplation of law. Thus the whole organized militia of the State is now *employed in the service of the Confederate States*; and notwithstanding the State in such case has expressly reserved the right to appoint every officer to command them, her right to appoint a single officer to fill a single vacancy in a single company, battalion or regiment, is now denied; and it is claimed that they are all in future to be appointed, not by the State, but by the President.

"One of the reasons given for this extraordinary pretension is, that it will not do to trust the troops after they are in service with this important right of choosing their own officers, as they would not elect officers who are faithful and who maintain discipline and do their duty. This objection would certainly apply with equal force to the first election, when a regiment or company is being organized. If the men are competent on entering the

service to elect those who shall command them, why are they not equally competent to elect to fill vacancies which afterward occur? Do experience in the military field, and intimate acquaintance with their comrades in arms, make them less competent to judge of the qualifications of those who aspire to command? The simple statement of the proposition is a sufficient expose of its fallacy. At the organization of our regiments, the men elected officers on short acquaintance, as but little time was allowed them; and doubtless made some mistakes, putting in men less competent than some others left out. They have since seen them tried in service, and now know who is best qualified. But when a vacancy occurs, they are now to be confined to those who were first elected to lower positions, to fill the higher positions, to which they never chose them. And if an officer who claims promotion is set aside for incompetency by an examining board, the next in rank may step forward and claim the place, and is held to be entitled to it over the best man in the regiment if he is a private, though he may be the choice of every man in the command. It is only the lowest commissioned officer in the company who is taken from the ranks; and if the best and most competent man failed to get a commission at the first election, he cannot now aspire from the ranks to a higher position than the lowest lieutenancy. This policy of filling all vacancies by promotion not only disregards the constitutional rights of the States, but it does the grossest injustice to those who are often the most deserving of promotion, and denies to the men the valuable right of selecting their own rulers.

"If it is said the President may go out of the regular line of promotion, and reward merit in the ranks, it may be truly replied that this is seldom done; and that the men cannot look to their companions in arms, but can look only to the President for promotion. This not only concentrates all power in his hands, but subjects every man's claims to his favoritism, prejudice, or caprice; and destroys independence of thought and of action by compelling all to depend for promotion upon their capacity to flatter or their ability to please a single individual. Georgia's troops have done their duty nobly in the field, and they have a right to look to the government of their State for the protection of their rights. Many of them now claim this protection. Shall they have it?

"I recommend that this General Assembly pass a joint resolution declaratory of the reserved rights of the State, and of the constitutional right of election by her troops, and demanding of the Confederate Government the recognition of this right."

Next to the conscription laws and the provision for exempting slaveholders, perhaps nothing done by the Congress of the Confederacy had so damaging effect as the law allowing

SUBSTITUTES IN THE ARMY.

Governor Brown's opposition to that law, and the practice of government and army officers, is strongly set forth in his message to the Legislature, as follows:

"That portion of the conscript act which authorizes those within conscript age to employ substitutes, has, in my opinion, been productive of the most unfortunate results. If conscription is right, or if it is to be acquiesced in as a matter of necessity, it is certainly just that it act upon all alike, whether rich or poor. With the substitution principle in the act, its effect has been to compel the poorer class, who have no money with which to employ substitutes, to enter the army, no matter what may be the condition of their families at home, while the rich, who have money with which to employ substitutes, have often escaped compulsory service. This is not just as between man and man. While I trust I have shown that the poorest man in the Confederacy has such interest at stake as should stimulate him to endure any amount of hardship or danger for the success of our cause, it cannot be denied that the wealthy are under as great obligation to do service, as they have, in addition to the rights and liberties of themselves and their children, a large amount of property to protect. If every wealthy man would do his duty, and share his part of the dangers of the war, but few complaints would be heard from the poor. But if the money of the rich is to continue to secure him from the hardships, privations, and dangers, to which the poor are exposed, discontent, and more or less demoralization in the army must be the inevitable result.

"He who has paid two or three thousand dollars for his substitute has often made it back in a single month by speculation, and it has not unfrequently happened that the families of those in service, at eleven dollars per month, have been the most unfortunate victims of his speculation and extortion.

"A very large number of stout, able-bodied young men, between 18 and 45 years of age, are now out of the army, and in their places the government has accepted old men over 45, who have, in most cases, been unable to undergo long marches, privation, and fatigue. Thousands of these have sunk by the way, either into the hospitals or into the grave. It is also understood that much the larger number of deserters and stragglers from the army have been substitutes who have entered it for hire, and, after receiving the stipulated price, have sought the first opportunity to escape, which they have in some instances been permitted to do, with the acquiescence and encouragement of officers who have been their partners in guilty speculation. Thus the same individual has been accepted as a substitute for each of several able-bodied young men, who have been left at home to seek for gain and

enjoy comfort, while our enemies have gained advantages on account of the weakness of our armies.

"If we expect to be successful in our struggle, the law must be so changed as to place in service the tens of thousands of young men who are now at home. This would reinforce our armies, so as to enable us to drive back the enemy upon every part of our borders. After this change in the law the government could provide for the protection of the most important interests at home, by making proper details of such persons as are indispensably necessary. This would be much better than the extension of the conscription act up to 50 or 55, as it would bring into the field young men able to endure service, in place of old men who must soon fail when exposed to great fatigue and hardship, many of whom are as competent as young men to oversee plantations and attend to other home interests.

"But it may be denied that the Government can now so change the law as to make those who have furnished substitutes liable to service, as it is bound by its contract to exempt them, and they have acquired vested rights under the contract, which it is not in the power of the Government to divest. Let us examine this for a moment. I purchase a lot of land from the State of Georgia, and pay her one thousand dollars for it, and she conveys it to me by grant under her great seal. The contract is as solemn, and binding, as the Government can make it. My fee simple title is vested and complete. But while I have the grant in my pocket and the State has my money in her treasury, it is discovered that public necessity requires the State to repossess herself of the land; I refuse to sell to her; she may pay me just compensation, and take the land without my consent, and she violates no fundamental principle, as all our private rights must yield to the public good, and if we are injured we can only require just compensation for the injury.

"Again, suppose I have labored hard and made upon my land a surplus of provisions, which are my own right and property, and I refuse to sell them to the Government, when the army is in need of them; it may take them without my consent and pay me just compensation, and I have been deprived of none of my constitutional rights.

"The right of a person who has employed a substitute, to be exempt from military service, can certainly stand upon no higher ground. The Government has extended to such persons the privilege of exemption upon the employment of a proper substitute, but if the public safety requires it, the Government certainly has as much right to revoke this privilege as it has to take from me my land, or my provisions, or other property, for public use; and all the person who employed the substitute could demand would be just compensation for the injury. The measure of damages might be the amount paid by the principal for his substitute, less a just pro rata for the time the substitute has served; and upon the payment of the damage or the just compensation for it, the Government would have the right to retain the substitute, as well as the principal, in service, as the substitute has been paid by

the principal for the service, and the principal has been compensated for the damage done him by ordering him into service. It would be competent, however, in estimating the damages in such case, to take into the account, the interest the principal has in the success of our cause, and the establishment of our independence, as necessary to the perpetuity of his liberties, and the security of all his rights. It would also be competent to inquire whether he has indeed suffered any pecuniary loss. If he has paid three thousand dollars for a substitute, and has been kept out of the army for that sum for one year, and during that time he has made ten thousand dollars more, by speculation, or otherwise, than he would have made had he been in the army at eleven dollars per month, the actual amount of compensation due from the Government to him might be very small indeed, if anything.

"Believing that the public necessity requires it, and entertaining no doubt that Congress possesses the power to remedy the evil, without violating vested rights, I respectfully recommend the passage of a joint resolution by this General Assembly, requesting Congress to repeal that part of the conscript act which authorizes the employment of substitutes, and, as conscription is the present policy of the Government, to require all persons able to do military duty, who have substitutes in service, to enter the military service of the Confederacy with the least possible delay, and to provide some just rule of compensation to those who may be injured by the enactment of such a law. I also recommend that said resolution instruct our Senators, and request our Representatives in Congress, to vote for and urge the passage of this measure at the earliest possible day."

CHAPTER IX.

GOVERNOR BROWN AND THE CONFEDERATE MILITARY.

Governor Brown took strong and decided ground against the practices of the Confederate military of indiscriminate seizure and impressment of private property, as follows:—

IMPRESSMENT OF PRIVATE PROPERTY.

“It is also my duty to call your attention to another matter considered by the people of this State a subject of grievance. The power is now claimed by almost every military commander to impress the private property of the citizen at his pleasure, without any express order from the Secretary of War for that purpose; and in many cases without the payment of any compensation—the officer, who is in some cases only a captain or lieutenant, giving a certificate that the property has been taken for public use; which seizure, after long delay, may, or may not, be recognized by the Government; as it may determine that the officer had, or had not, competent authority to make it.

“I am aware that the Constitution confers the power upon the Confederate Government to take private property for public use, paying therefor just compensation; and I have no doubt that every true and loyal citizen would cheerfully acquiesce in the exercise of this power, by the properly authorized and responsible agents of the Government, at all times when the public necessities might require it. But I deny that every subaltern in uniform who passes through the country has the right to appropriate what he pleases of the property of the citizen without being able to show the authority of the Government for the exercise of this high prerogative. As our people are not aware of their proper remedies for the redress of the grievances hereinbefore mentioned, I respectfully suggest, that the General Assembly, after consideration of these questions, declare by resolution or otherwise, their opinion as to the power of the Confederate Government and its officers in these particulars. I also respectfully request that the General Assembly declare the extent to which the Executive of this State will be sustained by the representatives of the people in protecting their rights, and the integrity of the Government, and sovereignty of the State, against the usurpations and abuses to which I have invited your attention.”

One of the potent causes of irritation among the poor men of the Confederate armies, and which was a fruitful and growing cause of discontent, was the small price paid to soldiers in actual service after the depreciation of the Confederate currency. They began to compare their situation with the exempts and favored people at home, and to think of the insignificant purchasing power of the government currency; for instance, that a soldier's wages for a month would not buy a bushel of salt for his family or a decent pair of shoes for his wife. They began to murmur and complain, and to deluge the Governor of Georgia, whom they from the first regarded as a true friend, ever ready to aid them in all methods in his power. He made the effort in vain, through the Legislature, to induce Congress to stimulate and conciliate the army by an increase of the pay of soldiers.

The following pointed message upon that subject shows some, at least, of the powerfully working causes of the ultimate downfall of the Confederacy, and constitutes a vital part of the history of the struggle.

EXECUTIVE DEPARTMENT,
MILLEDGEVILLE, April 6th, 1863. }

"To the General Assembly:—

"The armies of the Confederate States are composed, in a great degree, of poor men and non-slaveholders, who have but little property at stake upon the issue. The rights and liberties of themselves and of their posterity are, however, involved; and with hearts full of patriotism, they have nobly and promptly responded to their country's call, and now stand a living fortification between their homes and the armed legions of the Abolition Government. Upon their labor their families at home have depended for support, as they have no slaves to work for them. They receive from the Government but eleven dollars per month, in depreciated currency, which, at the present high prices, will purchase very little of the necessities of life. The consequence is, that the wives of thousands of them are now obliged to work daily in the field to make bread—much of the time without shoes to their feet, or even comfortable clothes for themselves or their little children. Many are living

upon bread alone, and feel the most painful apprehensions lest the time may come when enough even of this cannot be afforded them. In the midst of all the privations and sufferings of themselves and their families, the loyalty of those brave men to the Government cannot be questioned, and their gallantry shines more conspicuously upon each successive battle field. Freemen have never, in any age of the world, made greater sacrifices in freedom's cause, or deserved more of their country or of posterity.

"While the poor have made and are still making these sacrifices, and submitting to these privations to sustain our noble cause and transmit the rich blessings of civil and religious liberty and national independence to posterity, many of the rich have freely given up their property, endured the hardships and privations of military service, and died gallantly upon the battle field. It must be admitted, however, that a large proportion of the wealthy class of people have avoided the fevers of the camp and the dangers of the battle field, and have remained at home in comparative ease and comfort with their families.

"If the enrolling officer under the conscript act has summoned them to camp, they have claimed exemption to control their slaves, or they have responded with their money, and hired poor men to take their places as substitutes. The operation of this act has been grossly unjust and unequal between the two classes. When the poor man is ordered to camp by the enrolling officer, he has no money with which to employ a substitute, and he is compelled to leave all the endearments of home and go. The money of the rich protects them. If the substitution principle had not been recognized, and the act had compelled the rich and the poor to serve alike, it would have been much more just.

"Again, there is a class of rich speculators who remain at home preying like vultures upon the vitals of society, determined to make money at every hazard, who turn a deaf ear to the cries of soldiers' families, and are prepared to immolate even our armies and sacrifice our liberties upon the altar of mammon. If laws are passed against extortion, they find means of evading them. If the necessities of life can be monopolized and sold to the poor at famine prices, they are ready to engage in it. If contributions are asked to clothe the naked soldier or feed his hungry children, they close their purses and turn away. Neither the dictates of humanity, the love of country, the laws of man, nor the fear of God, seem to control or influence their actions. To make money and accumulate wealth is their highest ambition, and seems to be the only object of their lives. The pockets of these men can be reached in but one way, and that is by the tax gatherer; and, as they grow rich upon the calamities of the country, it is the duty of patriotic statesmen and legislators to see that this is done, and that the burdens of the war are, at least to some extent, equalized in this way. They should be compelled to divide their ill-gotten gains with the soldiers who fight our battles; both they and the wealthy of the country, not engaged as they are,

should be taxed to contribute to the wants of the families of those who sacrifice all to protect our lives, our liberties and our property.

"I consider it but an act of simple justice, for the reasons already stated, that the wages of our private soldiers be raised to twenty dollars per month, and that of non-commissioned officers in like proportion, and that the wealth of the country be taxed to raise the money. I therefore recommend the passage of a joint resolution by the Legislature of this State, requesting our Senators and Representatives in Congress to bring this question before that body, and to do all they can, both by their influence and their vote, to secure the passage of an act for that purpose, and to assess a tax sufficient to raise the money to pay the increased sum. This would enable each soldier to do something to contribute to the comfort of his family while he is fighting the battles of his country at the expense of his comfort and the hazard of his life.

"I respectfully but earnestly urge upon you the justice and importance of favorable consideration and prompt action upon this recommendation.

"Let the hearts of our suffering soldiers from Georgia be cheered by the intelligence that the Legislature of their State has determined to see that justice is done them, and that the wants of themselves and their families are supplied, and their arms will be nerved with new vigor when uplifted to strike for the graves of their sires, the homes of their families, the liberties of their posterity, and the independence and glory of the Republic.

"JOSEPH E. BROWN."

The Legislature, by joint resolution, promptly united with the Governor in the justice and importance of the matter, and appealed in vain to the Confederate Congress to adopt it.

The efforts to increase the pay of soldiers was met by the Government with the presentation of the reason that it was ruinous to increase their pay, because the currency was already depreciated, and the depreciation would be increased with the increase of its volume thus to be rendered necessary. The troops in the army could not appreciate the reason while they could see it violated by the Government through its agents in every expenditure, except that of paying the soldiers in service. Agents were advancing prices rapidly for all government supplies, and competitors in market with ready government cash for

all the necessities of life; in many instances the agents and officers buying on speculation and selling to the Government at large and fabulous profits. The soldiers could see that the expansion was rapid; that the prices advanced by Government officers and agents, in order to carry on their speculations, excluded their families from the markets at any lower rates. They therefore could not see the justice of the Government that kept them in service, whether they were willing or not under the conscript system, and refused to increase their pay. There were thousands of men in the service who did not regard the matter, and would have remained voluntarily in service without any pay at all. But the effect was very injurious upon thousands of others who desired the money for their families at home.

SUSPENSION OF THE HABEAS CORPUS.

From an early period of the war, the Governor protested in strong terms against the assumed and unauthorized authority of military commanders to declare martial law and place such portions of country or places as they desired to have absolute control of under military government, and to suspend civil authority and the processes of civil law.

On the 10th of March, 1864, he communicated his views on the subject as follows:—

“I cannot withhold the expression of the deep mortification I feel at the late action of Congress in attempting to suspend the privilege of the writ of *habeas corpus*, and to confer upon the President powers expressly denied to him by the Constitution of the Confederate States. Under pretext of a *necessity* which our whole people know does not exist in this case, whatever may have been the motives, our Congress with the assent and at the *request* of the executive has struck a fell blow at the liberties of the people of these States.

“The Constitution of the Confederate States declares that, ‘The privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of

rebellion or invasion the public safety may require it.' The power to suspend the *habeas corpus* at all is derived, not from express and direct delegation, but from implication only, and an implication can never be raised in opposition to an express restriction. In case of any conflict between the two, an implied power must always yield to express restrictions upon its exercise. The power to suspend the privilege of the writ of *habeas corpus* derived by implication must therefore be always limited by the *express* declaration in the Constitution that:—

“‘The right of the people to be secure in their *persons*, houses, papers, and effects, against unreasonable searches and seizures *shall not be violated*; and *no warrants shall issue* but upon probable cause, supported by *oath or affirmation*, and particularly describing the place to be searched and the *persons* or things to be seized,’ and the further declaration that, ‘no person shall be deprived of life, *liberty*, or property, without due process of law.’ And that,

“‘In *all criminal prosecutions* the accused shall enjoy the right of a *speedy* and public trial by an *impartial jury* of the State or district where the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defence.’

“Thus it is an express guaranty of the Constitution that the ‘*persons*’ of the people shall be secure, and ‘*no warrants shall issue*,’ but upon probable cause, supported by ‘*oath or affirmation*,’ particularly describing ‘the *persons* to be seized;’ that ‘no *person* shall be deprived of *liberty*, without due process of law,’ and that in ‘all criminal prosecutions the accused shall enjoy the right of a *speedy* and *public* trial by an *impartial jury*.’

“The Constitution also defines the *powers* of the Executive, which are limited to those delegated, among which there is no one authorizing him to issue *warrants* or *order arrests* of persons not in *actual* military service; or to sit as a judge in any case, to try any person for a criminal offence, or to appoint any *court* or *tribunal* to do it not provided for in the Constitution as part of the judiciary. The power to *issue warrants* and try persons under criminal accusations are *judicial* powers which belong, under the Constitution, *exclusively* to the *judiciary* and not to the *Executive*. His power to order arrests as commander-in-chief is strictly a *military* power, and is confined to the arrest of *persons subject to military power*, as to the arrest of persons in the army or navy of the Confederate States; or in the militia, when in the *actual* service of the Confederate States; and does not extend to any persons in civil life unless they be followers of the camp or within the lines of the army. This is clear from that provision of the Constitution which declares that:—

“‘No person shall be held to answer for a capital or otherwise infamous crime unless on a *presentment* or *indictment* of a *grand jury*, except in cases arising

in the land or naval forces, or in the militia when in actual service in time of war or public danger. But even here the power of the President as commander-in-chief is not absolute, as his powers and duties in ordering arrests of persons in the land or naval forces, or in the militia when in *actual service*, are clearly defined by the rules and articles of war prescribed by Congress. *Any warrant* issued by the President, or *any arrest* made by him, or under his order, of *any person* in civil life and not subject to military command, is *illegal* and in *plain violation of the Constitution*; as it is impossible for Congress by implication to confer upon the President the right to exercise powers of arrest expressly forbidden to him by the Constitution. Any effort on the part of Congress to do this is but an attempt to revive the odious practice of ordering political arrests, or issuing letters *de cachet* by royal prerogative, so long since renounced by our English ancestors; and the denial of the right of the constitutional judiciary to investigate such cases, and the provision for creating a court appointed by the Executive, and changeable at his will, to take jurisdiction of the same, are in violation of the great principles of Magna Charta, the Bill of Rights, the Habeas Corpus Act, and the Constitution of the Confederate States, upon which both English and American liberty rest; and are but an attempt to revive the odious Star Chamber court of England, which, in the hands of wicked kings, was used for tyrannical purposes by the crown, until it was finally abolished by Act of Parliament, of 16th Charles the First, which went into operation on the first of August, 1641. This Act has ever since been regarded as one of the great bulwarks of English liberty; and, as it was passed by the English Parliament to secure our English ancestors against the very same character of arbitrary arrests which the late Act of Congress is intended to authorize the President to make, I append a copy of it to this message, with the same italics and small capital letters which are used in the printed copy in the book from which it is taken. It will be seen that the court of 'Star Chamber,' which was the instrument in the hands of the English king, for *investigating* his illegal arrests and carrying out his arbitrary decrees was much more respectable, on account of the character, learning, and ability of its members, than the Confederate Star Chamber, or court of 'proper officers,' which the Act of Congress gives the President power to appoint to *investigate* his illegal arrests.

I am aware of no instance in which the British king has ordered the arrest of any person in civil life in any other manner than by judicial warrant issued by the established courts of the realm; or in which he has suspended, or attempted to suspend, the privilege of the writ of *habeas corpus* since the Bill of Rights and act of settlement passed in 1689. To attempt this in 1864 would cost the present reigning Queen no less price than her crown.

"The only suspension of the privilege of the writ of *habeas corpus*, known to our Constitution, and compatible with the provisions already stated, goes to the simple extent of preventing the release under it of persons whose arrests have been ordered under constitutional warrants from judicial authority.

To this extent the Constitution allows the suspension in case of rebellion or invasion in order that the accused may be certainly and safely held for trial; but Congress has no right under pretext of exercising this power to authorize the President to make *illegal arrests* prohibited by the Constitution; and when Congress has attempted to confer such powers on the President, if he should order such illegal arrests it would be the imperative duty of the judges, who have solemnly sworn to support the Constitution, to disregard such unconstitutional legislation and grant relief to persons so illegally imprisoned; and it would be the duty of the legislative and executive departments of the States to sustain and protect the judiciary in the discharge of this obligation.

"By an examination of the act of Congress, now under consideration, it will be seen that it is not an act to suspend the privilege of the writ of *habeas corpus* in case of warrants issued by *judicial authority*; but the main purpose of the act seems to be to authorize the President to issue warrants supported by neither *oath* nor *affirmation* and to make arrests of persons not in military service, upon charges of a nature proper for investigation in the judicial tribunals only, and to prevent the Courts from inquiring into such arrests, or granting relief against such illegal usurpations of power, which are in direct and palpable violation of the Constitution.

"The act enumerates more than twenty different causes of arrest, most of which are cognizable and triable only in the judicial tribunals established by the Constitution; and for which *no warrants* can legally issue for the arrest of persons in civil life by any power except the judiciary; and then only upon probable cause supported by *oath* or *affirmation* particularly describing the *persons* to be seized; such as 'treason' 'treasonable efforts or combinations to subvert the Government of the Confederate States,' 'conspiracies to overthrow the Government,' or 'conspiracies to resist the lawful authority of the Confederate States,' giving the enemy 'aid and comfort,' 'attempts to incite servile insurrection,' 'the burning of bridges,' 'railroad,' or 'telegraph lines,' 'harboring deserters,' and 'other offences against the laws of the Confederate States,' &c., &c. And as if to place the usurpation of power beyond doubt or cavil, the act expressly declares that the 'suspension shall apply only to the case of persons *arrested or detained by the President*, the Secretary of War, or the general officer commanding the Trans-Mississippi Military Department, *by authority and under the control of the President*,' in the cases enumerated in the act, most of which are exclusively of judicial cognizance, and in which cases *the President* has not the shadow of constitutional authority to *issue warrants* or order arrests, but is actually prohibited by the Constitution from doing so.

"This then is not an act to suspend the privilege of the writ of *habeas corpus* in the manner authorized by implication by the Constitution; but it is an act to authorize the President to make *illegal and unconstitutional arrests* in cases which the Constitution gives to the judiciary, and denies to the Ex-

ecutive; and to prohibit all judicial interference for the relief of the citizen, when tyrannized over by illegal arrest, under letters *de cachet* issued by Executive authority.

"Instead of the legality of the arrest being examined in the judicial tribunals appointed by the Constitution, it is to be examined in the Confederate Star Chamber; that is, by *officers* appointed by the President. Why say that the '*President shall cause proper officers to investigate*' the legality of arrests ordered by him? Why not permit the Judges, whose constitutional right and duty it is, to do it?

"We are witnessing with too much indifference assumptions of power by the Confederate Government which in ordinary times would arouse the whole country to indignant rebuke and stern resistance. History teaches us that submission to one encroachment upon constitutional liberty is always followed by another; and we should not forget that important rights, yielded to those in power, without rebuke or protest, are never recovered by the people without revolution.

"If this act is acquiesced in, the President, the Secretary of War, and the commander of the Trans-Mississippi department under the control of the President, each has the power conferred by Congress to imprison whomsoever he chooses; and it is only necessary to *allege* that it is done on account of 'treasonable efforts' or of 'conspiracies to resist the lawful authority of the Confederate States,' or for 'giving aid and comfort to the enemy,' or other of the causes of arrest enumerated in the Statute, and have a subaltern to file his affidavit accordingly *after the arrest* if a writ of *habeas corpus* is sued out, and no court dare inquire into the cause of the imprisonment. The Statute makes the President and not the courts the judge of the sufficiency of the cause for his own acts. Either of you or any other citizen of Georgia, may at any moment (as Mr. Vallandigham was in Ohio) be dragged from your homes at midnight by armed force, and imprisoned at the will of the President, upon the pretext that you have been guilty of some offence of the character above named, and no court known to our judiciary can inquire into the wrong or grant relief.

"When such bold strides towards military despotism and absolute authority are taken by those in whom we have confided, and who have been placed in high official position, to guard and protect constitutional and personal liberty, it is the duty of every patriotic citizen to sound the alarm; and of the State Legislatures to say in thunder tones, to those who assume to govern us by absolute power, that there is a point beyond which freemen will not permit encroachments to go.

"The Legislatures of the respective States are looked to as the guardians of the rights of those whom they represent, and it is their duty to meet such dangerous enactments upon the liberties of the people promptly; and express their unqualified condemnation; and to instruct their Senators and request their Representatives to repeal this most monstrous act, or resign a trust

which by permitting it to remain on the statute book they abuse, to the injury of those who have honored them with their confidence in this trying period of our history. I earnestly recommend that the Legislature of this State take prompt action upon this subject, and stamp the act with the seal of their indignant rebuke.

"Can the President no longer trust the judiciary with the exercise of the legitimate powers conferred upon it by the Constitution and laws? In what instance have the grave and dignified Judges proved disloyal or untrue to our cause? When have they embarrassed the Government by turning loose traitors, skulkers or spies? Have they not in every instance given the Government the benefit of their doubts in sustaining its action, though they might thereby seem to encroach upon the rights of the States, and for a time deny substantial justice to the people? Then why this implied censure upon them?

"What justification exists now for this most monstrous deed which did not exist during the first or second year of the war, unless it be found in the fact, that those in power have found the people ready to submit to every encroachment rather than make an issue with the Government while we are at war with the enemy; and have on that account been emboldened to take the step which is intended to make the President as absolute in his power of arrest and imprisonment as the Czar of all the Russias? What reception would the members of Congress from the different States have met in 1861, had they returned to their constituents and informed them that they had suspended the *habeas corpus*, and given the President the power to imprison the people of these States with no restraint upon his sovereign will? Why is liberty less sacred now than it was in 1831? And what will we have gained when we have achieved our independence of the Northern States if, in our efforts to do so, we have permitted our form of government to be subverted, and have lost *constitutional liberty* at home?

"The hope of the country now rests in the new Congress soon to assemble. They must maintain our liberties against encroachment and wipe this and all such stains from the statute book, or the sun of liberty will soon set in darkness and blood.

"Let the constituted authorities of each State send up to their representatives when they assemble in Congress an unqualified demand for prompt redress; or a return of the commissions which they hold from their respective States."

THE CAUSES OF THE WAR, HOW CONDUCTED, AND WHO RESPONSIBLE

He discusses as follows :—

"Cruel, bloody, desolating war is still waged against us by our relentless enemies, who, disregarding the laws of nations and the rules of civilized war—

fare, whenever either interferes with their fanatical objects or their interest, have in numerous instances been guilty of worse than savage cruelty.

"They have done all in their power to burn our cities when unable by their skill and valor to occupy them; and to turn innocent women and children, who may have escaped death by the shells thrown among them without previous notice, into the streets destitute of homes, food and clothing.

"They have devastated our country wherever their unhallowed feet have trod our soil, burning and destroying factories, mills, agricultural implements, and other valuable property.

"They have cruelly treated our sons while in captivity, and in violation of a cartel agreed upon, have refused to exchange them with us for their own soldiers unless we would consent, against the laws of nations, to exchange our slaves as belligerents when induced or forced by them to take up arms against us.

"They have done all in their power to incite our slaves to insurrection and murder, and when unable to seduce them from their loyalty, have, when they occupied our country, compelled them to engage in war against us.

"They have robbed us of our negro women and children who were comfortable, contented and happy with their owners, and, under pretext of extraordinary philanthropy, have in the name of liberty congregated thousands of them together in places where they could have neither the comforts nor the necessities of life, there neglected and despised, to die by pestilence and hunger.

"In numerous instances their brutal soldiers have violated the persons of our innocent and helpless women; and have desecrated the graves of our ancestors, and polluted and defiled the altars which we have dedicated to the worship of the living God.

"In addition to these and other enormities, hundreds of thousands of valuable lives both North and South have been sacrificed, causing the shriek of the mother, the wail of the widow, and the cry of the orphan to ascend to Heaven from almost every hearthstone in all the broad land once known as the United States.

"Such is but a faint picture of the devastations, cruelty, and bloodshed, which have marked this struggle.

"War in its most mitigated form, when conducted according to the rules established by the most enlightened and civilized nations, is a terrible scourge, and cannot exist without the most enormous guilt resting upon the heads of those who have without just cause brought it upon the innocent and helpless people who are its unfortunate victims. Guilt may rest in unequal degrees in a struggle like this upon both parties, but both cannot be innocent. Where then rests this crushing load of guilt?

"While I trust I shall be able to show that it rests not upon the people nor rulers of the South, I do not claim that it rested at the commencement of the struggle upon the whole people of the North.

"There was a large, intelligent, and patriotic portion of the people of the Northern States led by such men as Pierce, Douglas, Vallandigham, Bright, Voorhees, Pugh, Seymour, Wood, and many other honored names, who did all in their power to rebuke and stay the wicked, reckless fanaticism which precipitated the two sections into this terrible conflict. With such men as these in power we might have lived together in the Union perpetually.

"In addition to the strength of the Democratic party in the North there was a large number of persons whose education had brought them into sympathy with the so-called Republican or, in other words, the old Federal consolidation party, who would never have followed the wicked leaders of that party who used the slavery question as a hobby upon which to ride into power, and who to-day stand before Heaven and Earth guilty of shedding the blood of hundreds of thousands and destroying the brightest hopes of posterity, had they known the true objects of their leaders and the results which must follow the triumph of their policy at the ballot-box.

"The moral guilt of this war rested then in its incipency neither upon the people of the South, nor upon the Democratic party of the North, or upon that part of the Republican party who were deluded and deceived. But it rested upon the heads of the wicked leaders of the Republican party who had refused to be bound by the compacts of the Constitution made by our common ancestry. These men when in power in the respective States of the North arrayed themselves in open hostility against an important provision of the Constitution, for the security of clearly expressed and unquestionable rights of the people of the Southern States.

"Many of the more fanatical of them denounced the Constitution because of its protection of the property of the slaveholder as a 'covenant with death and a league with Hell,' and refusing to be bound by it, declared that a 'higher law' was the rule of their conduct and appealed to the Bible as that 'higher law.' But when the precepts of God in favor of slavery were found in both the Old and the New Testament they repudiated the Bible and its divine Author and declared for an *anti-Slavery Bible and an anti-Slavery God*.

"The abolition party having, when in power in their respective States, set at naught that part of the Constitution which guarantees protection to the rights and property of the Southern people, and having by fraud and misrepresentation obtained possession of the Federal government, the Southern people in self-defence were compelled to leave the Union in which their rights were no longer respected. Having destroyed the Union by their wicked acts and their bad faith, these leaders rallied a majority of the people of the North to their support with a promise to restore it again *by force*. Monstrous paradox! that a Union which was formed upon a compact between sovereign States, being eminently a creature of consent, is to be upheld *by force*. But monstrous as it is, the war springs ostensibly from this source—this is its origin, its soul, and its life, so far as a shadow of pretext for it can be found. In their mad effort to restore by force a Union which

they have destroyed, and to save themselves from the just vengeance which awaited them for their crimes, the abolition leaders in power have lighted up the continent with a blaze of war which has destroyed hundreds of millions of dollars worth of property, and hundreds of thousands of valuable lives, and loaded posterity with a debt which must cause wretchedness and poverty for generations to come. And all for what? That fanaticism might triumph over constitutional liberty, as achieved by the great men of 1776, and that ambitious men might have place and power. In their efforts to destroy our liberties the people of the North, if successful, would inevitably lose their own by overturning, as they are now attempting to do, the great principles of Republicanism upon which constitutional liberty rests. The Government in the hands of the abolition administration is now a despotism as absolute as that of Russia.

"Unoffending citizens are seized in their beds at night by armed force and dragged to dungeons and incarcerated at the will of the tyrant, because they have dared to speak for constitutional liberty, and to protest against military despotism.

"The *habeas corpus*,—that great bulwark of liberty, without which no people can be secure in their lives, persons, or property; which cost the English several bloody wars, and which was finally wrung from the crown by the sturdy barons and people at the point of the bayonet; which has ever been the boast of every American patriot, and which I pray God may never, under pretext of *military necessity*, be yielded to encroachments by the people of the South,—has been trampled under foot by the Government at Washington, which imprisons at its pleasure whomsoever it will.

"The freedom of the ballot-box has also been destroyed, and the elections have been carried by the overawing influence of military force.

"Under pretext of keeping men enough in the field to subdue the South, President Lincoln takes care to keep enough to hold the North in subjection also—to imprison, or exile those who attempt to sustain their ancient rights, liberties, and usages, and to drive from the ballot box those who are not subservient to his will, or enough of them to enable his party to carry the elections. Can an intelligent Northern conservative man contemplate this state of things, without exclaiming, 'whither are we drifting? What will we gain by the subjugation of the South, if in our attempt to do it we must lose our own liberties; and visit upon ourselves and our posterity the chains of military despotism?'

"How long a people once free will submit to the despotism of such a government the future must develop. One thing is certain; while those who now rule remain in power in Washington the people of the *Sovereign States* of America can never adjust their difficulties. But war, bloodshed, devastation, and increased indebtedness must be the inevitable result. There must be a change of administration, and more moderate councils prevail in the Northern States before we can ever have peace. While subjugation, aboli-

tion, and confiscation are the terms offered by the Federal Government, the Southern people will resist as long as the patriotic voice of woman can stimulate a guerrilla band or a single armed soldier to deeds of daring in defence of liberty and home.

"I have said the South is not the guilty party in this dreadful carnage, and I think it not inappropriate that the reasons should often be repeated at the bar of an intelligent public opinion; that our own people and the world should have 'line upon line, and precept upon precept,' 'here a little and there a little,' 'in season and out of season' as some may suppose, to show the true nature of this contest, the principles involved, the objects of the war on our side, as well as that of the enemy, that all right minded men everywhere may see and understand that *this contest is not of our seeking*, and that we have had no wish or desire to injure those who war against us except so far as has been necessary for the protection and preservation of ourselves. Our sole object from the beginning has been to defend, maintain, and preserve our ancient usages, customs, liberties, and institutions, as achieved and established by our ancestors in the revolution of 1776.

"That Revolution was undertaken to establish two great rights—State sovereignty and self government. Upon these the Declaration of Independence was predicated, and they were the corner-stone upon which the Constitution rested. The denial of these two great principles cost Great Britain her American Colonies which had so long been her pride. And the denial of them by the Government at Washington, if persisted in, must cost the people of the United States the liberties of themselves and their posterity. These are the pillars upon which the temple of constitutional liberty stands, and if the Northern people, in their mad effort to destroy the sovereignty of the Southern States and take from our people the rights of self government, should be able, with the strength of an ancient Samson, to lay hold upon the pillars, and overturn the edifice, they must necessarily be crushed beneath its ruins, as the destruction of State sovereignty and the right of self government in the Southern States, by the agency of the Federal Government, necessarily involves the like destruction in the Northern States; as no people can maintain these rights for themselves who will shed the blood of their neighbors to destroy them in others. It is impossible for half the States of a Confederacy, if they assist the central government to destroy the rights and liberties of the other half, to maintain their own rights and liberties against the central power after it has crushed their Co-States.

"The two great truths announced by Mr. Jefferson, in the Declaration of Independence and concurred in by all the great men of the Revolution were, 1st, 'That Governments derive their just powers from the *consent of the governed*.' 2d, 'That these United Colonies are, and of right ought to be, *free and independent States*.'

"We are not to understand by the first great truth that each individual

member of the aggregate mass composing the State must give his consent before he can be justly governed; or that the consent of each or a particular class of individuals in a State is necessary. By the 'governed' is evidently here meant communities and bodies of men capable of organizing and maintaining government. The 'consent of the governed' refers to the aggregate will of the community or State in its organized form, and expressed through its legitimate and properly constituted organs.

"In elaborating this great truth Mr. Jefferson in the Declaration of Independence says, that governments are instituted among men to secure certain 'inalienable rights'—that 'among these are life, liberty, and the pursuit of happiness;' 'that whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.'

"According to this great fundamental principle the *Sovereign States of America*, North and South, can only be governed by their own consent; and whenever the government to which they have given their consent becomes destructive of the great ends for which it was formed, they have a perfect right to 'abolish it' by withdrawing their consent from it, as the Colonies did from the British Government, and to form a 'new Government, with its foundations laid on such principles, and its powers organized in such form as to them shall seem most likely to effect their safety and happiness.' Upon the application to the present controversy of this great principle, to which the Northern States are as firmly committed as the Southern States, Georgia can proudly challenge New York to trial before the bar of enlightened public opinion, and impartial history must write the verdict in her favor and triumphantly vindicate her action in the course she has pursued.

"Not only all the sovereign States of America have heretofore recognized this great truth, but it has been recognized by the able and enlightened Emperor of the French, who owes his present elevation to the 'consent of the governed.'

"He was called to the presidency by the free suffrage or consent of the French people, and when he assumed the imperial title he again submitted the question to the 'governed' at the ballot-box, and they gave their 'consent.'

"At the recent treaty of peace with the Emperor of Austria he ceded an Austrian province to France, and Napoleon refused to 'govern it' till the people at the ballot-box gave 'their consent' that he should do so.

"The Northern States of America are to-day, through the agency of the despotism at Washington, waging a bloody war upon the Southern States, to crush out this great American principle announced and maintained in a seven years' war by our common ancestry, after it has won the approbation of the ablest and most enlightened sovereign of Europe.

"In discussing this great principle I can but remark how strange is the contrast between the conduct of the Emperor Napoleon and that of President Lincoln. Napoleon refuses to govern a province till a majority of the people at the ballot-box have given their consent. Lincoln, after having done all in his power to destroy the freedom and purity of the ballot-box, announces in his late proclamation his determination to govern the sovereign States of the South *by force*, and to recognize and maintain as the Government of these States, not those who at the ballot-box can obtain the 'consent of the governed,' or of a majority of the people, but those who can obtain the consent of *one tenth* of the people of the State. Knowing that he can never govern these States with 'the consent of the governed,' he tramples the Declaration of Independence under his feet and proclaims to the world that he will govern these States, not by the 'consent of the governed' but by military power, so soon as he can find *one tenth* of the governed humiliated enough to give their consent.

"But the world must be struck with the absurdity of the pretext upon which he bases this extraordinary pretension. He says, in substance, the Constitution required him to guarantee to each State a Republican form of Government. And for the purpose of carrying out this provision of the Constitution he proclaims that, so soon as *one tenth* of the people of each of the seceded States shall be found abject enough to take an oath to support his *unconstitutional acts* and at the same time to support the Constitution, and shall do this monstrous deed, he will permit them to organize a State Government and will recognize them as the Government of the State and their officers as the regularly constituted authorities of the State. These he will aid in putting down, driving out, expelling, and exterminating the other *nine tenths*, if they do not likewise take the prescribed oath.

"*One tenth* of the people of a State put up and aided by military force to rule, govern, or exterminate *nine tenths*! And this to be done under the guise or professed object of guaranteeing Republicanism! What would Washington, Jefferson, Madison, Monroe, Adams, Hancock, or even Hamilton have said to this kind of Republicanism? What say the conservative Northern statesmen of the present day, if permitted to speak? Does such a government as this derive its just powers from the 'consent of the governed?' Is this their understanding of the Republican Government which the United States is to guarantee to each State? If so, what guaranty have they for the freedom of their posterity? If the Government at Washington guarantees such Republicanism as this to Georgia in 1864, what may be her guaranty to Ohio and other Western States in 1874?

"The absurdity of such a position, on constitutional principles or views, is too glaring for comment. When such terms are offered to them, well may the people of these States be nerved to defend their rights and liberties at every hazard, under every privation, and to the last extremity.

"But I must notice the other great truth promulgated in the Declaration

of Independence—that these United Colonies are, and of right ought to be, *free and independent States*.

“George the third denied this great truth in 1776, and sent his armies into Virginia, the Carolinas, and Georgia, to crush out its advocates, and maintain over the people a government which did not derive its *powers* from the ‘consent of the governed.’ President Lincoln in 1861 has made war upon the same States and their Confederates to crush out the same doctrine by armed force. Yet he has none of the apparent justification before the world that the British King had. The colonies had been planted, nurtured and governed by Great Britain. As States, they had never been independent and never claimed to be. This claim was set up for the first time in the Declaration of Independence. Under these circumstances, there was some reason why the British Crown should resist it. But the great truth proclaimed was more powerful than the armies and navy of Great Britain.

“On the 4th of July, 1776, our fathers made this declaration of freedom and independence of the States. The Revolution was fought upon this declaration, and on the 3d day of September, 1783, in the treaty of peace, ‘His Britannic Majesty acknowledges the said United States, to wit, New Hampshire, Massachusetts Bay, Rhode Island and Providence plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be *free, sovereign and independent States*, that he treats with them as such,’ etc.

“On and after that day, Georgia stood before the world clad in all the habiliments and possessed of all the attributes of sovereignty. When did Georgia lose this sovereignty? Was it by virtue of her previous compact with her sister States? Certainly not.

“The Articles of Confederation between the colonies, during the struggle, set forth the objects to be attained, and the nature of the bond between the parties to it, and the separate sovereignty of each of the States a party to it was expressly reserved. Was it when she with the other States formed the Constitution in 1787? Clearly not. The Constitution was a compact between the thirteen States, each of which had been recognized separately by name, by the British King, as a *free, sovereign and independent State*.

“The objects and purposes for which the Federal Government was formed were distinctly specified, and were all set forth in the compact. The government created by it was limited in its powers by the grant, with an express reservation of all powers not delegated. The great attribute of *separate State Sovereignty* was not delegated. In this particular, there was no change from the Articles of Confederation, *Sovereignty* was still reserved and abided with the States respectively. This more ‘perfect Union’ was based upon the assumption that it was for the best interest of all the States to enter into it, with the additional grant of powers and guarantees—each State being bound as a sovereign to perform and discharge to the others all the new obligations of the compact. It was so submitted to the people of the States

respectively and so acceded to by them. The States did not part with their *separate sovereignty* by the adoption of the Constitution. In that instrument all the powers delegated are specifically mentioned. Sovereignty, the greatest of all political powers, the source from which all others emanate, is not amongst those mentioned. It could not have been parted with except by grant either expressed or clearly implied. The most degrading act a State can do is to lay down or surrender her sovereignty. Indeed, it cannot be done except by deed or grant. The surrender is not to be found in the Constitution amongst the expressly granted powers. It cannot be amongst those granted by implication; for by the terms of the compact none are granted by implication except such as are incidental to or necessary and proper to execute those that are expressly granted. The incident can never be greater than the object—and if nothing in the powers expressly granted amounts to sovereignty, that which is the greatest of all powers cannot follow or be carried after a lesser one, as an incident by implication—and then to put the matter at rest forever, it is expressly declared that the powers not delegated are reserved to the States respectively or to the people. Sovereignty, the great source of all power, therefore was left with the States by the compact, left where King George left it, and left where it has ever since remained, and will remain forever if the people of the States are true to themselves, and true to the great principles which their forefathers achieved at such cost of blood and treasure, in the war of 1776.

“The Constitution was only the written contract or bond between the sovereign States in which the covenants were all plainly expressed, and each State as a sovereign pledged its faith to its sister States to observe and keep these covenants. So long as each did this, all were bound by the compact. But it is a rule as well known and as universally recognized in savage as in civilized life—as well understood and as generally acquiesced in between sovereign States as between private individuals, that when one party to a contract refuses to be bound by it, and to conform to its requirements, the other party is released from further compliance.

“Without entering into an argument to show the manner in which the Northern States had perverted the contract, and warped its terms to suit their own interest, in the enactment and enforcement of tariff laws for the protection of their industry at the expense of the South, and in the enactment of internal improvement laws, coast navigation laws, fishery laws, etc., etc., which were intended to enrich them at the expense of the people of the South, I need cite but a single instance of open, avowed, self-confessed, and even boasted violation of the compact by the Northern States, to prove that the Southern States were released and discharged from further obligation to the Northern States by every known rule of law, morality, or comity.

“One of the express covenants in the written bond to which the Northern States subscribed, and without which, as is clearly seen by reference to the debates in the Convention which formed the Constitution, the Southern States never would have agreed to or formed the compact, was in these words:

"'No person held to service or labor in one State under the laws thereof, escaping into another, shall in consequence of any *law or regulation therein* be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.'

"Massachusetts and other abolition States utterly repudiated, annulled, and set at naught this provision of the Constitution; and refused either to execute it or to permit the constituted authorities of the United States to carry it out within their limits.

"This shameful violation by Massachusetts of her plighted faith to Georgia, and this refusal to be bound by the parts of the Constitution which she regarded burdensome to her and unacceptable to her people, released Georgia according to every principle of international law from further compliance on her part. In other words, the Constitution was the bond of Union between Georgia and Massachusetts, and when Massachusetts refused longer to be bound by the Constitution, *she* thereby dissolved the union between her and Georgia.

"It is truthfully said in the Declaration of Independence, that 'experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.' So it was with Georgia and her Southern sisters in this case. Though Massachusetts and other Northern States by their faithless acts and repudiation of the compact had dissolved the union existing between the States, the Southern States did not declare the dissolution; hoping that a returning sense of justice on the part of the Northern States might cause them again to observe their Constitutional obligations. So far from this being the case, they construed our forbearance into a consciousness of our weakness, and inability to protect ourselves; and they organized a great sectional party, whose political creed was founded in injustice to the South; and whose public declarations and acts sustained the action of Massachusetts and the other faithless States.

"This party, whose creed was avowed hostility to the rights of the South, triumphed in the election for President in 1860. The election of a Federal Executive by a sectional party, upon a platform of avowed hostility to the Constitutional rights of the South, to carry out in the Federal administration the doctrines of Massachusetts, and other faithless States, left no further ground for hope that the rights of the South would longer be respected by the Northern States; which had not only the Executive, but a majority of the Congress.

"The people of the Southern States, each sovereign State acting for itself, then met in Convention; and, in the most solemn manner known to our form of government, resumed the exercise of the powers which they had delegated to the common agent, now faithless to the trust reposed in it.

"The right of Georgia as a member to the original compact to do this is too clear for successful denial. And the right of Alabama, and the other

States, which had been admitted into the union since the adoption of the Constitution, is equally incontrovertible; as each new State came into the union as a sovereign, upon an equal footing in all respects whatever with the original parties to the compact.

"The Confederate States can, therefore, with confidence, submit their acts to the judgment of mankind; while with a clear conscience they appeal to a just God to maintain them in their course. They were ever true to the compact of the Union so long as they remained members of it—their obligations under it were ever faithfully performed; and no breach of it was ever laid at their door, or truly charged against them. In exercising their undoubted right to withdraw from the Union, when the covenant had been broken by the Northern States, they sought no war—no strife.—They simply withdrew from further connection with self-confessed, faithless confederates. They offered no injury to them—threatened none—proposed none—intended none. If their previous union with the Southern States had been advantageous to them, and our withdrawal affected their interests injuriously, they ought to have been truer to their obligations. They had no just cause to complain of us, the breach of the compact was by themselves—the vital cord of the union was severed by their own hands.

"After the withdrawal of the Confederate States from the Union, if those whose gross dereliction of duty had caused it had reconsidered their own acts and offered new assurances for better faith in future, the question would have been fairly and justly put to the seceded States, in their sovereign capacity, to determine whether, in view of their past and future interest and safety, they should renew the union with them or not, and upon what terms and guarantees; and if they had found it to be their interest to do so, upon any terms that might have been agreed upon, on the principle assumed at the beginning, that it was for the best interest of all the States to be bound by some compact of union with a central government of limited powers, each State faithfully performing its obligations, they would doubtless have consented to it. But if they had found it to be their interest not to do it, they would not and ought not to have done it. For the first law of nature, as applicable to States and communities as to individuals, is self-protection and self-preservation.

"Possibly a new government might have been formed at that time, upon the basis of the Germanic Confederation; with a guaranty of the complete sovereignty of all the separate States, and with a central agent or government of more limited powers than the old one; which would have been as useful for defence against foreign aggression, and much less dangerous to the sovereignty and the existence of the States than the old one when in the hands of abolition leaders had proved itself to be.

"The length of time for which the Germanic Confederation has existed, has proved that its strength lies in what might have been considered its weakness—the separate sovereignty of the individual members, and the very limited powers of the central government.

"In taking the step which they were forced to do, the Southern States were careful not to provoke a conflict of arms, or any serious misunderstanding with the States that adhered to the government at Washington, as long as it was possible to avoid it. Commissioners were sent to Washington to settle and adjust all matters relating to their past connection, or joint interests and obligations, justly, honorably, and peaceably. Our commissioners were not received—they were denied the privilege of an audience—they were not heard. But they were indirectly trifled with, lied to, and misled by duplicity as infamous as that practised by Philip of Spain towards the peace commissioners sent by Elizabeth of England. They were detained and deceived with private assurances of a prospect of a peaceful settlement; while the most extensive preparations were being made for war and subjugation. When they discovered this they withdrew, and the government at Washington continued its vigorous preparations to reinforce its garrisons and hold the possession of our forts, and to send armies to invade our territory.

"Having completed his preparations for war, and refused to hear any propositions for a peaceful adjustment of our difficulties, President Lincoln issued his proclamation declaring Georgia and the other seceded States to be in *rebellion*, and sent forth his armies of invasion.

"In *rebellion* against whom or what? As sovereign States have no common arbiter, to whose decision they can appeal when they are unable to settle their differences amicably, they often resort to the sword as the arbiter; and as sovereignty is always in dignity the equal of sovereignty, and a sovereign can know no superior to which allegiance is due, one sovereign may be at war with another, but one can never be in rebellion against another.

"To say that the sovereign State of Georgia is in rebellion against the sovereign State of Rhode Island is as much an absurdity as it would be to say that the sovereign State of Russia was in rebellion against the sovereign State of Great Britain in their late war. They were at war with each other, but neither was in rebellion against the other, nor indeed could be; for neither owed any *allegiance* to the other.

"Nor could one of the sovereign States be in rebellion against the government of the United States. That government was the creature of the States by which it was created; and they had the same power to destroy it at pleasure which they had to make it. It was their common agent with limited powers, and the States by which the agency was created had the undoubted right, when it abused these powers, to withdraw them. Suppose, by mutual consent, all the States in the Union had met in convention, each in its sovereign capacity, and had withdrawn all the delegated powers from the Federal government, and all the States had refused to send Senators or Representatives to Congress, or to elect a President; will any sane man question their right, or deny that such action of the States would have destroyed the Federal government? If so, the Federal government was the creature of the States and could exist only at their pleasure. It lived and breathed only by their

consent. If all the parties to the compact had the right by mutual consent to resume the powers delegated by them to the common agent, why had not part of them the right to do so when the others violated the compact—refused to be bound longer by its obligations, and thereby released their copartners? The very fact that the States by which it was formed could at any time by mutual consent disband, and destroy the Federal government, shows that it had no original, inherent sovereignty or jurisdiction. As the creature of the States it had only such powers and jurisdictions as they gave it; and it held what it had at their pleasure. If, therefore, a State withdrew from the confederacy without just cause, it was a question for the other sovereign States to consider what should be their future relations towards it, but it was a question of which the Federal government had not the shadow of jurisdiction. So long as Georgia remained in the Union, if her citizens had refused to obey such laws of Congress as it had constitutional jurisdiction to pass, they might have been in rebellion against the Federal government, because they resisted the authority over them which Georgia had delegated to that government, and which, with her consent, it still possessed. But if Georgia for just cause, of which she was the judge, chose to withdraw from the Union and resume the attributes of sovereignty which she had delegated to the United States Government, her citizens could no longer be subject to the laws of the Union, and no longer guilty as rebels if they did not obey them.

“It could be as justly said that the principal who has delegated certain limited powers to his agent in the transaction of business, which he has afterwards withdrawn on account of their abuse by the agent, is in rebellion against the agent; or that the master is in rebellion against his servant; or the landlord against his tenant; because he has withdrawn certain privileges for a time allowed them, as that Georgia is in rebellion against her former agent, the government of the United States.

“These I understand to be the great fundamental doctrines of our republican form of government so ably expounded in the Virginia and Kentucky resolutions of 1798 and 1799, which have ever since been a text book of the *true* republican party of the United States. Departure from these principles has destroyed the federal government and been the prolific cause of all our woes. Out of this departure has sprung the doctrine of loyalty and disloyalty of the States to the Federal government, from which comes ostensibly this war against us; which is itself at war with the first principles of American constitutional liberty. It involves the interests, the future safety and welfare, of those States now deemed loyal, as well as those pronounced disloyal. It is the doctrine of absolutism revived in its worst form. It strikes down the essential principles of self-government ever held so sacred in our past history; and to which all the States were indebted for their unparalleled career, in growth, prosperity, and greatness, so long as those principles were adhered to and maintained inviolate.

“If carried out and established, its end can be nothing but centralism and

despotism. It and its fatal corollary—the policy of forcing sovereign States to the discharge of their assumed constitutional obligations—were foreshadowed by President Lincoln in his inaugural address.

“Now at the time of the delivery of that inaugural address it is well known to him, that the faithless States above alluded to, and to whose votes in the electoral college he was indebted for his election, had for years been in open, avowed, and determined violation of their constitutional obligations. This he well knew, and he also knew that the seceded States had withdrawn from the Union because of this breach of faith on the part of the abolition States, and other anticipated violations, more dangerous, threatened from the same quarter. Yet without a word of rebuke, censure, or remonstrance with them, for their most flagrant disloyalty to the constitution, and their disregard of their most sacred obligations under it, he then threatened and now wages war against us, on the ground of our *disloyalty* in seeking new safeguards for our security, when the old ones failed. And the people of those very States, whose disloyal hands had severed the ties of the Union—breaking one of the essential parts of the compact, have been, and are, his most furious myrmidons in this most wicked and unjust crusade against us, with the view to compel the people of these so outraged States to return to the discharge of *their* constitutional obligations! It may be gravely doubted if the history of the world can furnish an instance of grosser perfidy or more shameful wrong.

“But while the war is thus waged, professedly under the paradoxical pretext of restoring the Union, that was a creature of consent, by force, and of upholding the Constitution by coercing sovereign States; yet its real objects, as appears more obviously every day, are by no means so paradoxical. The Union under the Constitution as it was, each and every State being bound faithfully to perform and discharge its duties and obligations, and the central government confining itself within the sphere of its limited powers, is what the authors, projectors, and controllers of this war never wanted; and never intended; and do not now intend to maintain.

“Whatever differences of opinion may have existed at the commencement, among our own people, as to the policy of secession, or the objects of the Federal government, all doubt has been dispelled by the abolition proclamation of President Lincoln and his subsequent action. Maddened by abolition fanaticism and deadly hate for the white race of the South, he wages war, not for the restoration of the Union—not for the support of the Constitution—but for the abolition of slavery and the subjugation and, as he doubtless desires, ultimate extermination of the Anglo-Norman race in the Southern States. Dearly beloved by him as are the African race, his acts are prompted less by love of them than by Puritanic hate for the Cavaliers, the Huguenots, and Scotch Irish, whose blood courses freely through the veins of the white population of the South. But Federal bayonets can never reverse the laws of God, which must be done before the negro can be made

the equal of the white man of the South. The freedom sought for them by the abolition party, if achieved, would result in their return to barbarism, and their ultimate extermination from the soil, where most of them were born and were comfortable and contented, under the guardian care of the white race, before the wicked crusade was commenced.

"What have been the abolition achievements of the administration? The most that has been claimed by them is, that they have taken from their owners, and set free, 100,000 negroes. What has this cost the white race of the North and South? More than half a million of white men slain or wrecked in health beyond the hope of recovery, and an expenditure of not perhaps less than four thousand millions of dollars. What will it cost at this rate to liberate nearly 4,000,000 more of slaves? Northern accounts of the sickness, suffering and death, which have under Northern treatment carried off so large a portion of those set free, ought to convince the most fanatical of the cruel injury they are inflicting upon the poor helpless African.

"The real objects of the war aimed at from the beginning were and are, not so much the deliverance of the African from bondage as the repudiation of the great American doctrine of self-government; the subjugation of the people of these States; and the confiscation of their property. To carry out their fell purpose by misleading some simple minded folks, within their own limits as well as ours perhaps, they passed in the House of Representatives of the Federal Congress a short time since the famous resolution:

"That as our country and the very existence of the best government ever instituted by man is imperilled by the most causeless and wicked rebellion, that the only hope of saving the country and preserving this government is by the power of the sword, we are for the most vigorous prosecution of the war, until the *constitution and laws* shall be enforced and obeyed in all parts of the United States; and to that end we oppose any armistice, or intervention, or mediation, or *proposition for peace*, from any quarter, so long as there shall be found a rebel in arms against the government; and we ignore all party names, lines and issues, and recognize but two parties to this war—patriots, and traitors."

"Were solemn mockery, perfidious baseness, unmitigated hypocrisy, and malignant barbarity, ever more conspicuously combined, and presented for the just condemnation of a right thinking world, than they are in this resolution, passed by the abolition majority in the Lincoln Congress? Think of the members from Massachusetts and Vermont voting for the most vigorous prosecution of the war until the *Constitution and laws* shall be enforced and obeyed in all parts of the United States. Think of the acts of the Legislature of Massachusetts, passed in 1848 and 1855, still standing upon her statute book, setting at defiance the *Constitution and laws*. What would become of these States? And what would become of their members themselves, who have upheld and sustained these violations of the *Constitution and laws*, which is the chief reason why they now hold their seats, by the votes

of their constituents, if the war should be so waged? How long would it be before they would ground their arms of rebellion against the provision of the Constitution which they have set at naught, and give it their loyal support? What would become of their President and his cabinet; and all who from the beginning of the war, and before that time, have been trampling the Constitution under their feet? Were the war waged as they thus declare it to be their purpose to wage it, they would be the first victims of the sword, were it first turned, as it ought to be, against the first offenders. This they know full well. Obedience to the Constitution is the last thing they want or intend. Hence the mockery, baseness, and hypocrisy of such a declaration of purpose. On their part, it is a war of most wanton and savage aggression; on ours, it is a war in defence of inalienable rights; in defence of everything for which freemen should live; and for which freemen may well be willing to die.

"The inestimable rights of self-government, and State sovereignty, for which their fathers and our fathers bled and suffered together, in the struggle with England for independence, are the same for which we are now engaged, in this most unnatural and sanguinary struggle with them. Those rights are as dear to the people of these States as they were to those who achieved them; and on account of the great cost of achievement they are the more precious cherished by those to whom they were bequeathed, and will never be surrendered or abandoned at less sacrifice.

"If no proposition for peace or armistice is to be received, or entertained, so long as we hold arms in our hands, to defend ourselves, our homes, our hearthstones, our altars, and our birthright, against such ruthless and worse than Vandal invaders, be it so! We deem it due, however, to ourselves, to the civilized world, and to those who shall come after us, to put upon record what we are fighting for; and to let all know, who may now or hereafter feel an interest in knowing the real nature of this conflict, that the heavy responsibility of such suffering, desolation, and carnage, may rest where it rightfully belongs.

"It is believed that many of the people of the Northern States labor under the impression that no propositions for peaceful adjustment have ever been made by us.

"President Lincoln, in his letter to the 'Unconditional Union' meeting at Springfield last summer, stated in substance, that no proposition for peaceful adjustment of the matters in strife had ever been made to him by those who were in control of the military forces of the Confederate States, but if any such should be made, he would entertain and give it his consideration.

"This was doubtless said to make the impression on the minds of those not well informed, that the responsibility of the war was with us. This declaration of President Lincoln stands in striking contrast with that above quoted, from the republican members of the House of Representatives.

“ When this statement was made by President Lincoln it was well known to him that our commissioners sent to settle the whole matter in dispute, peaceably, were refused a hearing ! They were not even permitted to present their terms !

“ This declaration was also made soon after it was well known throughout the Confederate States at least that a distinguished son of this State, who is a high functionary of the government at Richmond, had consented as military commissioner to bear a communication in writing from President Davis, the Commander-in-Chief of our armies, to President Lincoln himself, with authority to confer upon matters therein set forth. This commissioner sent from the head of our armies was not granted an audience, nor was the communication he bore received. That communication, as was afterwards known, related to divers matters connected with the general conduct of the war. Its nature, however, or to what it referred, President Lincoln did not know when he refused to receive it. But from what is now known of it, if he had received it, and had heard what terms might have been proposed for the general conduct of the war, it is reasonable to conclude that the discussion of these and kindred topics might have led to some more definite ideas of the aims and objects of the war on both sides, from which the initiative of peaceful adjustment might have sprung ; unless his real purpose be, as it is believed to be, nothing short of the conquest and subjugation of these States. His announcement, that no offer of terms of adjustment had ever been made to him, is believed to be an artful pretext on his part to cover and hide from the people, over whom he is assuming such absolute sway, his deep designs first against our liberties, and then against theirs.

HOW PEACE SHOULD BE SOUGHT.

“ In view of these difficulties it may be asked, when and how is this war to terminate ? It is impossible to say when it may terminate, but it is easy to say how it will end. We do not seek to conquer the Northern people, and if we are true to ourselves, they can never conquer us. We do not seek to take from them the right of self-government or to govern them without their consent ; and they have not force enough to govern us without our consent or to deprive us of the right to govern ourselves. The blood of hundreds of thousands may yet be spilt and the war will not still be terminated by force of arms. Negotiation *will* finally terminate it. The pen of the statesman, more potent than the sword of the warrior, must do what the latter has failed to do.

“ But I may be asked how negotiations are to commence when President Lincoln refuses to receive commissioners sent by us, and his Congress resolves to hear no proposition for peace ? I reply, that in my opinion it is our duty to keep it always before the Northern people and the civilized world, that we are ready to negotiate for peace whenever the people and government of the Northern States are prepared to recognize the great fun-

damental principles of the Declaration of Independence, maintained by our common ancestry—the *right of all self-government and the sovereignty of the States*. In my judgment it is the duty of our government, after each important victory achieved by our gallant and glorious armies on the battle-field, to make a distinct proposition to the Northern government for peace upon these terms. By doing this, if the proposition is declined by them, we will hold them up constantly in the wrong before their own people and the judgment of mankind. If they refuse to receive the commissioners who bear the proposition, publish it in the newspapers, and let the conduct of their rulers be known to the people; and there is reasonable ground to hope that the time may not be far distant when a returning sense of justice, and a desire for self-protection against despotism at home, will prompt the people of the Northern States to hurl from power those who deny the fundamental principle upon which their own liberties rest, and who can never be satiated with human blood. Let us stand on no delicate point of etiquette or diplomatic ceremony. If the proposition is rejected a dozen times, let us tender it again after the next victory—that the world may be reassured from month to month that we are not responsible for the continuance of this devastation and carnage.

“Let it be repeated again and again to the Northern people that all we ask is that they recognize the great principle upon which their own government rests—the *sovereignty of the States*: and let our own people hold our own government to a strict account for every encroachment upon this vital principle.

“Herein lies the simple solution of all these troubles.

“If there be any doubt or any question of doubt as to the sovereign will of any one of all the States of this Confederacy, or of any border State whose institutions are similar to ours not in the Confederacy, upon the subject of their present or future alliance, let all armed force be withdrawn, and let that sovereign will be fairly expressed at the ballot-box by the legal voters of the State, and let all parties abide by the decision.

“Let each State have and freely exercise the right to determine its own destiny in its own way. This is all that we have been struggling for from the beginning. It is a principle that secures ‘rights inestimable to freemen and formidable to tyrants only.’

“Let both governments adopt this mode of settlement, which was bequeathed to them by the great men of the Revolution, and which has since been adopted by the Emperor Napoleon, as the only just mode for the government of States or even provinces; and the ballot-box will soon achieve what the sword cannot accomplish—restore peace to the country and uphold the great doctrines of State sovereignty and Constitutional liberty.

“If it is a question of strife whether Kentucky or Maryland or any other State shall cast her lot with the United States or the Confederate States; there is no mode of settling it so justly, with so little cost, and with so much satisfaction to her own people, as to withdraw all military force from her

limits and leave the decision, not to the sword, but to the ballot-box. If she should decide for herself to abolish slavery and go with the North, the Confederate government can have no just cause of complaint, for that government had its origin in the doctrine that all its just 'powers are derived from the consent of the governed,' and we have no right to insist on governing a sovereign State against her will. But if she should decide to retain her institutions and go with the South, as we doubt not she will when the question is fairly submitted to her people at the polls, the Lincoln government must acquiesce, or it must repudiate and trample upon the very essential principles on which it was founded, and which were carried out in practice by the fathers of the Republic for the first half century of its existence.

"What Southern man can object to this mode of settlement? It is all that South Carolina, Virginia, or Georgia claimed when she seceded from the Union. It is all that either has at any time claimed, and all that either ever can justly claim. And what friend of Southern independence fears the result? What has the abolition government done to cause the people of any Southern State to desire to reverse her decision and return ingloriously to its embrace? Are we afraid the people of any seceded State will desire to place the State back in the abolition union, under the Lincoln despotism, after it has devastated their fields, laid waste their country, burned their cities, slaughtered their sons, and degraded their daughters? There is no reason for such fear.

"But I may be told that Mr. Lincoln has repudiated this principle in advance, and that it is idle again to tender a settlement upon these terms. This is no reason why we should withhold the repeated renewal of the proposition. Let it be made again and again, till the mass of the Northern people understand it: and Mr. Lincoln cannot continue to stand before them and the world, stained with the blood of their sons, their husbands, and their fathers, and insist, when a proposition so fair is constantly tendered, that thousands of new victims shall still continue to bleed, to gratify his abolition fanaticism, satisfy his revenge, and serve his ambition to govern these States, upon the decision of *one tenth* of the people in his favor, against the other *nine tenths*. Let the Northern and Southern mind be brought to contemplate this subject in all its magnitude; and while there may be extreme men on the Northern side, satisfied with nothing less than the subjugation of the South and the confiscation of our property, and like extremists on the Southern side, whose morbid sensibilities are shocked at the mention of negotiation, or the renewal of an offer by us for a settlement upon any terms; I cannot doubt that the cool-headed thinking men on both sides of the line, who are devoted to the great principles of self-government, and State sovereignty, including the scar-covered veterans of the army, will finally settle down upon this as the true solution of the great problem, which now embarrasses so many millions of people, and will find the higher truth between the two extremes.

"If, upon the sober second thought, the public sentiment North sustains the policy of Mr. Lincoln, when he proposes by the power of the sword to place the great doctrines of the Declaration of Independence and the Constitution of his country under his feet, and proclaims his purpose to govern these States by military power when he shall have obtained the consent of *one tenth* of the governed; how can the same public sentiment condemn him, if at the head of his vast armies he shall proclaim himself Emperor of the whole country, and submit the question to the vote of the Northern people, and when he has obtained, as he could easily do, the vote of *one tenth* in his favor, he shall insist on his right to govern them as their legitimate sovereign? If he is right in principle in the one case, he would unquestionably be right in the other. If he may rightfully continue the war against the South to sustain the one, why may he not as rightfully turn his armies against the North to establish the other?

"But the timid among us may say, how are we to meet and repel his armies, if Mr. Lincoln shall continue to reject these terms and shall be sustained by the sentiment of the North? as he claims not only the right to govern us, but he claims the right to take from us all that we have.

"The answer is plain. Let every man do his duty; and let us as a people place our trust in God and we shall certainly repel his assaults and achieve our independence, and if true to ourselves and to posterity we shall maintain our Constitutional liberty also. The achievement of our independence is a great object; but not greater than the preservation of Constitutional liberty.

"The good man cannot read the late proclamation of Mr. Lincoln without being struck with the resemblance between it and a similar one issued, several thousand years ago, by Ben-hadad, king of Syria. That wicked king denied in others the right of self-government; and vaunting himself in numbers, and putting his trust in chariots and horses, he invaded Israel, and besieged Samaria with an overwhelming force. 'When the king of Israel, with a small band, resisted his entrance into the city, the Syrian King sent him this message: 'Thou shalt deliver me thy silver and thy gold, and thy wives, and thy children; yet I will send my servants unto thee to-morrow, about this time, and they shall search thy house, and the houses of thy servants; and it shall be, that whatsoever is pleasant in thine eyes they shall put in their hands and take it away.' The king of Israel consulted the elders, after receiving this arrogant message, and replied: 'This thing I may not do.' Ben-hadad enraged at this reply, and confident of his strength, sent back and said:

"The Gods do so to me, and more also, if the dust of Samaria shall suffice, for handfuls, for all the people that follow me.' The king of Israel answered and said: 'Tell him, let not him that girdeth on his harness boast himself as he that putteth it off.'

"The result was, that the small band of Israelites, guided by Jehovah,

attacked the Syrian armies, and routed them with great slaughter, and upon a second trial of strength the Syrian armies were destroyed and their king made captive.

"When Mr. Lincoln, following the example of this wicked king, and relying upon his chariots, and his horsemen, and his vast armies, to sustain a cause equally unjust, proclaims to us, that *all we have is his*, and that he will send his servants, whose numbers are overwhelming, with arms in their hands to take it, and threatens vengeance if we resist, let us—'Tell him, let not him that girdeth on his harness boast himself as he that putteth it off.' 'The race is not to the swift, nor the battle to the strong.' 'God is the judge, he putteth down one and setteth up another.'

"Not doubting the justice of our cause, let us stand in our allotted places, and in the name of Him who rules the hosts of Heaven and the armies of Earth, let us continue to strike for liberty and independence, and our efforts will ultimately be crowned with triumphant success.

"JOSEPH E. BROWN."

On the 17th November, 1864, Governor Brown sent the following message to the Legislature, to which that body, representing the public spirit of this State, promptly responded by the passage of the act called for, and by placing the whole white population of the State able to do military duty, between 16 and 55 years of age, subject to his orders :—

"EXECUTIVE DEPARTMENT, }
MILLEDGEVILLE, NOV. 7, 1864. }

"To the General Assembly:

"I have received what I consider reliable information, that the enemy has burnt and laid waste a large part of Atlanta, and of several other towns in upper Georgia, and has destroyed the State Road back to Allatoona, and burnt the railroad bridge over the Chattahoochee River, and is now advancing in heavy force in the direction of Macon, and probably of this city, laying waste the country and towns in the line of his march.

"The emergency requires prompt, energetic action. If the whole manhood of the State will rally to the front, we can check his march and capture or destroy his force. There are now in the State, large numbers of men not under arms in either State or Confederate service. The class of State officers not subject to militia duty, such as judges, justices of the inferior courts, sheriffs, etc., will amount to a fine regiment.

"There are numerous others with Confederate details, not connected with the present active operations of the front, probably amounting to several regiments. All these, and every other person in the State able to bear

arms, no matter what his position may be, should rally to the standard in the field, till the emergency is passed.

"The present militia laws are not adequate to the occasion, and I respectfully ask the passage of a law, with the least possible delay, authorizing the Governor to make a levy *en masse* of the whole male population, including every man able to do military duty, during the emergency, and to accept, for such length of time as may be agreed upon, the services of any companies, battalions, regiments, brigades, or divisions of volunteers which may tender their services, with any number of men which he may consider effective. Plenary power should be given to compel all to report who fail or refuse to do so.

"I respectfully suggest that the appropriation bill be taken up and passed without delay, and that a military bill of the character indicated be also passed, and that the Governor and Legislature then adjourn to the front, to aid in the struggle till the enemy is repulsed, and to meet again if we should live at such place as the Governor may designate.

"JOSEPH E. BROWN."

On the same day the Legislature passed an act appropriating \$500,000 for the Georgia Relief and Hospital Association; \$6,000,000 for indigent widows, orphans, and soldiers' families of Georgia, and disabled soldiers; \$800,000 to purchase corn for bread for counties overrun by the Federal army; \$1,200,000 to pay any part of the public debt to become due in 1865; \$1,000,000 as a military fund for the State; \$1,500,000 to be used in exporting cotton and other produce to pay for clothing, blankets, and other necessities for Georgia troops, and for the purpose of accumulating exchange in Europe, to pay the interest on the sterling debt of the State, and to meet the demands of the State for railroad supplies, and authorized the issue of treasury notes to meet these sums, all of which were placed by the act under the control of the Governor. All these appropriations resulted from the powerful and urgent appeals of the Executive in his messages.

The military fund, and that for the relief of the indigent, and of soldiers' families, were largely increased at

the extra session in March, 1865, held at Macon. And the Quartermaster-General of the State was authorized to issue clothing, shoes, hats, and blankets to all Georgia soldiers in service.

As we have seen, the irregular manner of raising troops effectually prevented the estimate of their number as well as the commands in which the Georgians served. It is also not now practical to report the number of those who died of sickness and accidents, and from wounds in battle, or the number of the maimed or disabled. It will never be pretended by any candid and well-informed person that this State suffered less than any one of her sisters in proportion to population, or that on the battle-fields they were less gallant, in camp and on the march less orderly and obedient, or in the times of trial, hardship, or affliction, less patient and enduring and uncomplaining. Her voting population at the beginning was 101,505; she sent a larger number than this to the field; of course many entered the service who were not voters. The confusion that followed the downfall of the Confederacy prevented any means of knowing the excess of loss by death over those coming to manhood within the four years of war.

This State sent her men, and offered her material resources on the altar of the Confederacy. In 1861 her property was valued at \$672,731,901. In 1868, the earliest period at which official reports are had, it was valued at \$191,235,520; a loss had thus accrued in property of \$481,497,381; when to this we add the loss by repudiated securities contracted during the war under Federal dictation, the sum of \$18,135,775, and the untold amount of Confederate paper that became worthless, we approximate the material loss of this great State by the war and its results.

In March, 1864, Governor Brown in his message to the Legislature thus speaks of the matter of

CONFLICT WITH THE CONFEDERATE GOVERNMENT.

"But it may be said that an attempt to maintain the rights of the State will produce conflict with the Confederate Government. I am aware that there are those who, from motives not necessary to be here mentioned, are ever ready to raise the cry of *conflict*, and to criticise and condemn the action of Georgia in every case where her constituted authorities protest against the encroachments of the central power, and seek to maintain her dignity and sovereignty as a State, and the constitutional rights and liberties of her people.

"Those who are unfriendly to State sovereignty and desire to consolidate all power in the hands of the Confederate Government, hoping to promote their undertaking by operating upon the fears of the timid, after each new aggression upon the constitutional rights of the States, fill the newspaper presses with the cry of *conflict*, and warn the people to beware of those who seek to maintain their constitutional rights as *agitators* or *partisans* who may embarrass the Confederate Government in the prosecution of the war.

"Let not the people be deceived by this false clamor. It is the same cry of *conflict* which the Lincoln Government raised against all who defended the rights of the Southern States against its tyranny. It is the cry which the usurpers of power have ever raised against those who rebuke their encroachments and refuse to yield to their aggressions.

"When did Georgia embarrass the Confederate Government in any matter pertaining to the vigorous prosecution of the war? When did she fail to furnish more than her full quota of troops, when she was called upon as a State by the proper Confederate authority? And when did her gallant sons ever quail before the enemy, or fail nobly to illustrate her character upon the battle-field?

"She can not only repel the attacks of her enemies on the field of deadly conflict, but she can as proudly repel the assaults of those who, ready to bend the knee to power for position and patronage, set themselves up to criticise her conduct, and she can confidently challenge them to point to a single instance in which she has failed to fill a requisition for troops made upon her through the regular constitutional channel. To the very last requisition made she responded with over double the number required.

"She stands ready at all times to do her whole duty to the cause and to the Confederacy; but while she does this, she will never cease to require that her constitutional rights be respected and the liberties of her people preserved. While she deprecates all conflict with the Confederate Government, if to require these be *conflict*, the *conflict* will never end till the object is attained.

'For Freedom's battle once begun,
Bequeath'd by bleeding sire to son,
Though baffled oft is ever won,'

will be emblazoned in letters of living light upon her proud banners, until State sovereignty and constitutional liberty, as well as Confederate independence, are firmly established."

When his own State was invaded and overrun by the Federal troops, under the victorious Sherman in his march to the sea, and when the backbone of the Confederacy was virtually broken, and the circulation of its life blood impeded, the pulse beating low and extremities in great part paralyzed and growing cold, and the people who had sustained the Governor from the beginning of the struggle were desponding and almost bereft of a vestige of hope, there was an incident which puts forever in the form of detraction, the pretended implication or charge that Brown was not to the last true to the Confederacy and the common cause of independence.

General Sherman made overture to him as Governor of this State for the peace of the State, and through Mr. William King invited him to a conference with a view to this consummation. We are not now treating of the motives of the commanding Federal general, but with the purposes and aims of Governor Brown, who had the opportunity to save himself and the State from farther devastation and ruin, by abandoning his confederates in the struggle, and acting on the line of policy then ascribed to him, not by his friends or an impartial public, but by his foes at home and in his own country.

Brown sent back to General Sherman the only reply that he could have made without falsifying his past record, his principles of public and private honor, and every emotion and sentiment of his patriotic heart:—

“Say to General Sherman that Georgia has entered into a confederation with her Southern sisters for the maintenance of the same sovereignty of each, severally, which she claims for herself, and her public faith thus pledged shall never be violated by me. Come weal or come woe, the State of Georgia shall never, by my consent, withdraw from the confederation in dishonor. She will never make separate terms with the enemy which may free her territory from invasion and leave her confederates in the lurch.”

Such was the decisive action of a man in high official station charged with the honor of his people, after the advancing and overwhelming forces of the public enemy had to a great extent placed it beyond himself and his confederates to save the State from widespread ruin.

After the surrender of the Confederate armies, and not before, Governor Brown surrendered to the Federal General Wilson, commanding in this State, and accepted from him his parol and retired to the mansion at Milledgeville. His parol was soon after violated by an actual arrest at his own home by Federal soldiers and taken from him. He was hurried away to Washington City and imprisoned by armed force without delay, without the privilege of conferring with his family and against his earnest protest and claim of personal liberty on his parol from the Federal commander.

He was afterwards released by President Johnson and allowed to return home, where the State was under entire military occupation, and when he was divested of all military power and prevented by armed force from exercising any civil authority in the State; and therefore he resigned the office that had been by overpowering force wrenched from him; and the cause of independence for which he had so long struggled, and the hope of Constitu-

tional liberty as he had understood it in the nature and history of the Government and the express terms of the Federal Constitution; retired to the pursuit of private business, as did the civil officers of the State, as well as the surviving officers and soldiers of the Confederate armies.

FLIGHT FROM MILLEDGEVILLE.

The approach of the Federal army to the State Capital while the Legislature was in session produced a panic and a stampede of that body and caused the sudden and hasty departure of the State officials, including the Governor, his family, and staff. The enemies of Governor Brown were busy in circulating reports to damage him in the estimation of the people. It was charged against him, after his four years of labor and unremitted efforts in the cause of liberty and independence, that he proved to be selfish in this emergency, even in the small matter of taking care of his private effects to the neglect of those of the State, which might have been saved, but which he left to fall into the hands of the enemy. The late Gen. Richard Taylor, brother-in-law to President Davis, and holding high military rank under him, having referred to this criticism in his book entitled "Destruction and Reconstruction," has given it sufficient importance to call for the publication of the facts and truths of the removal from Milledgeville.

To this end the author has solicited a statement from Gen. Ira R. Foster, the laborious, efficient, and indefatigable Quartermaster-General of the State during the entire war; which statement, descriptive of the situation and showing the criticism referred to to be without merit, is here given:—

CUTHBERT, GA., December 19, 1880.

"GEN. IRA R. FOSTER, Warrenton, Ala.

"*Sir*:—In the late Gen. Richard Taylor's book entitled 'Destruction and Reconstruction,' purporting to be his 'personal experiences in the late war,' describing his visit to Georgia and the confusion produced by General Sherman's march through the State, reference is made to a criticism upon Ex-Governor Brown, then attributed to his enemies, to the effect that, in leaving the capitol with his family, he disregarded the State's property in order to take care of his own effects; that he even brought off his 'cow and cabbages.' He also refers in terms calculated to disparage the State troops. These matters derive importance from the high character of the gifted author, thus putting them in permanent print. I call your attention to them as the Quartermaster-General of the State, and ask a statement that will present the facts and truths as they were in that exciting period, in order to do justice to this State represented by her Executive.

"Respectfully your obt. servant and friend,

"HERBERT FIELDER."

WARRENTON, ALA., January 30, 1880.

"HON. HERBERT FIELDER:

"*Dear Sir*:—I have received your letter of the 19th ult., calling my attention to the rumors that were circulated at the time of General Sherman's advance to the sea by way of Milledgeville, to the effect that Governor Brown in leaving the capitol with his family to escape the Federal troops, disregarded the State's property in order to take care of his own, bringing away his 'cow and cabbages.'

"In answer to your request for my statement in regard thereto, I have to say—I often heard these reports, and knowing them to be untrue I as often positively contradicted them. I was there in person, and as Quartermaster-General of the State had immediate and entire supervision of the work; I have never seen more interest and anxiety manifested, or greater efforts made to accomplish any object than was shown both by Governor Brown and his wife in their endeavors to secure that property from the ravages of the opposing army.

"It is well known that Governor Brown owned no property in Milledgeville at the time, and that he had no private interest to care for and protect except his wife and children, a span of horses and carriage, a fine cow presented to his wife by a friend. These were removed only in time to save capture by the Federal troops.

"I feel it to be my duty to give a short history of some of the scenes at Milledgeville shortly after it was made known there that General Sherman with his army had left Atlanta, and was on his way to the sea.

"The Legislature was in session, Governor Brown and family were occupying the Executive Mansion, and the city was thronged with visitors. When

hearing of the movements of the enemy the whole people became excited, reaching almost to a panic. In the afternoon of that day the Legislature promptly adjourned, the members sought their respective homes as best they could, some taking passage on railroad trains, others in carriages and on horseback, thereby draining the city and vicinity of wagon transportation.

"Immediately after being assured of the enemy's advance, Governor Brown issued orders to me, as Quartermaster-General of the State, to secure and protect as best I could the most valuable of the State's perishable property in and around the seat of government. I at once took in the situation, and was assured that nothing short of Herculean efforts could handle the vast quantity of goods and chattels at the State House, Executive Mansion, Penitentiary, Armory, Arsenal, and in the quartermaster's and commissariat's store-houses, in so short a time, with my limited facilities of transportation.

"Upon consideration Governor Brown and myself agreed that the Lunatic Asylum afforded the safest and in many respects the most appropriate depository for our immense stores.

"I, having only two or three wagons and teams at that place, immediately put them, with all others I could command from the citizens by hire, impressment, or otherwise, to removing the property to that place, taking the most valuable first. I continued to do so with all possible rapidity for several hours, until I became convinced that from the long distance to travel it would be utterly impossible with my limited means to remove all the goods to the asylum in the time allotted me, and so reported to Governor Brown. Upon further consultation we concluded it would be safer and a wiser policy as well as more expeditious, to haul the goods to and load them on cars (the railroad depot being much nearer than the asylum), keep the cars ready to move on short notice, and to remove them to southwest Georgia. We then had an engine and several cars at the depot, and others were ordered and supplied immediately. The removal to and loading on the cars was commenced and continued day and night with all the energy and rapidity possible for man to use.

"Very soon after I began hauling goods to the depot I discovered that, from the shortness of the distance to that place, it required more men to load and unload the wagons in order to keep the teams rapidly moving, and so reported to Governor Brown, assuring him that the deficiency could not be supplied for either love or money. Whereupon he informed me the requisite number could be furnished in a few minutes, as he was then preparing pardons for most of the penitentiary convicts, who would be properly equipped and put in the field under General Wayne as soon as I could dispense with their service. But the remainder of the convicts, about ten or a dozen, composed of life-time prisoners and the most noted desperadoes, would be sent to lower Georgia under heavy guard, as he did not think it prudent to leave any within the walls of the penitentiary to be released by General Sherman and turned loose against us. In a short time, therefore, a large

number of ex-convicts headed by the noted Doctor Roberts reported for duty, and by their timely and efficient aid we were enabled to accomplish our great undertaking.

"The removal of the property in and around the Executive Mansion was the last in order. Looking around to ascertain what should be taken away, I discovered a luxuriant lot of collards in the garden; and without the knowledge of Governor Brown or his wife I ordered Aunt Celia, an old colored cook, to cut and bring them to where the wagons were being loaded. I designed to have the last cabbage cut and put on the train if time would permit, knowing the Governor's family would need part of them while refugeeing from place to place, and in part for the use of my own family then camped on the line of railroad at Dawson, whither they had gone after fleeing from Atlanta before General Sherman's fierce march. But not for Governor Brown's and my own family alone did I wish to save and bring away the cabbages. The greater part of them I desired and hoped to give to the several hundred poor, homeless, destitute exiles, consisting of the widows and orphans of slain Georgia soldiers; families of brave ones still at the front, aged men and women, and not a few of our noble sons who had long before volunteered and gone forth in the cause of the South and, after much suffering and many hard battles, had returned diseased, maimed, and helpless, to the care and protection of those for whom they had fought, had been driven from their homes in Atlanta and vicinity by order of General Sherman and left on line of railroad to Macon and below there, and who had been gathered up and taken to a place of refuge near Dawson.

"There, by order of Governor Brown, I had erected about one hundred cabins in which they were sheltered, protected, and fed at the expense of the State, under the immediate supervision of Milton A. Candler, who did his whole duty in their behalf.

"I also discovered on the premises the fine milch cow alluded to, and advised Mrs. Brown to have her shipped on a stock car, as she would be of great service to her children, and as by leaving her she would be stolen or slaughtered by the Federal soldiers. Mrs. Brown assented and the cow was driven to the train and placed on the car.

"As we were loading the last wagons with furniture we received a dispatch that the enemy's cavalry were making rapid advances toward the Central railroad between Macon and Milledgeville; and this reminded us to be up and off lest our entire train might be captured and we made prisoners of war. The loading of the wagons was about completed when I discovered the small pile of cabbages cut by Celia lying in the yard and had them thrown on top of the furniture, leaving at least nine tenths in the garden uncut. The wagons off in double-quick time and with wonderful dispatch unloaded on cars; steam being up we left immediately and made the trip to Macon in perhaps shorter time than any engine had ever done before.

"On reaching Macon, where a portion of the State troops were stationed, we

found that our fears had been well founded, as the Federal cavalry had reached and cut the railroad at or near Griswoldville, a point over which we had passed only a few minutes before.

"That evening or the next morning our train with Governor Brown and his family went down to Montezuma on the Southwestern railroad, and stopped on a sideling, and while there at dinner, at Mrs. Brown's table on board the cars, I remarked to her that she ought to have had some of our Milledgeville greens cooked for dinner. Until then I have no idea that she, the Governor, or any member of the family knew they were on board the cars. They had all left the mansion before the last loads of furniture were taken to the train. Even Aunt Celia did not know that those cut and piled in the yard had been brought away. Such is the origin and history of the cow and cabbage story.

"You allude in your letter to the work of General Taylor, and to another criticism it contains upon the Georgia State troops, and the policy he attributes to Governor Brown of keeping them within the State under all circumstances; and in which he refers to the fact of their having been outside the State, in South Carolina near Savannah, as a clever trick practised on them by General Toombs when they did not know where they were going, and done without the authority of Governor Brown.

"This, within my personal knowledge, does great injustice to the gallant troops who were at that time in the State service, and who distinguished themselves on every battle-field from the time they entered the service until the end of the struggle. It also does injustice to that able general, Gustavus W. Smith, who was in command of the State troops.

"After General Sherman had passed Macon on his march to the sea, I heard a conversation between Governor Brown and General Smith in reference to the use of the State troops beyond the limits of the State, in which the Governor instructed General Smith in emphatic terms to use the troops to the very best of his ability to annoy and cripple General Sherman's army during their march through the State. The Governor was asked by General Smith during the interview whether, if within his opinion the public interest and good of the cause required it, he should carry the State troops beyond the limits of the State, or whether he should confine himself within its boundaries. To which the Governor replied with great emphasis, 'Cripple the enemy all you can in the State. But if you see where any advantage can be gained, or where the common cause can be served by carrying them into South Carolina, or to any point beyond the limits of the State, do not hesitate a moment, but act promptly, and do all you can for Georgia and the Confederacy.'

"At that time General Wayne's brigade was in front of General Sherman between Macon and Savannah, doing all they could to guard the bridges on the Central railroad. And the body of the State militia were at Macon, where they remained in the trenches for the protection of the city until Sherman's

army had passed. They were then thrown rapidly by rail into Sherman's front near Savannah, and, as is well known to the country, were carried by General Smith across the Savannah river into South Carolina, where they fought a gallant battle and defeated the Federal general in command with heavy losses. They were then brought back to Savannah, and did all they could for the fortification of that city. When Sherman's army beleaguered the city, they were, as I am well informed, carried across on a pontoon bridge into South Carolina, and did all they could to annoy the enemy in that State up to about the time of the surrender. I am informed on the most reliable authority that there was no drawing back or murmuring on the part of the State troops when the order came to march across the river into South Carolina. But that they moved forward gallantly and cheerfully to discharge that important duty as they had hitherto done in every instance when duty called.

Yours respectfully,

"IRA R. FOSTER."

CHAPTER X.

CORRESPONDENCE OF GOVERNOR BROWN AND JAMES A. SEDDON, SECRETARY OF WAR, 1864.

Upon the invasion of Georgia and the approach of overwhelming forces, under command of General Sherman to the city of Atlanta, Governor Brown called out the State militia, the boys down to the age of sixteen and old men up to fifty-five years of age, and the State officials—some of whom had been elected or appointed after being discharged for disability in the Confederate service, and others who had held civil office and had not been in the army. This force, such as elsewhere were non-combatants, in Georgia, under her Governor, was called to the post of imminent danger and hardship, and responded with great promptness. It amounted to about ten thousand men, organized in companies and regiments, choosing their own officers by election. They were under Major-General Gustavus W. Smith, with General Robert Toombs as chief of staff, both of whom, having held commands in the Confederate army, had resigned, and accepted commands of the State militia. But all under the command, for the emergency that called them out, of the Confederate General Johnston, until his removal, and afterward of General Hood—doing noble and gallant service, suffering great losses and hardships.

President Davis, with all the volunteer forces—independent commands—of this State, all the requisitions previously made more than filled, and all the arms-bear-

ing men liable to conscription under Confederate laws, except the civil and militia officers already in service, made through Mr. Seddon, Secretary of War, a requisition upon Governor Brown for these troops to be turned over to the Confederate Government. The correspondence that ensued is pertinent and full of interest upon the subject of Georgia and the Confederacy. Hence we give it entire :—

CORRESPONDENCE.

"CONFEDERATE STATES OF AMERICA, }
 WAR DEPARTMENT. }
 RICHMOND, VA., August 30, 1864. }

"HIS EXCELLENCY J. E. BROWN,

"GOVERNOR OF GEORGIA,

"Milledgeville, Georgia.

"Sir:—The condition of your State, subjected to formidable invasion and menaced with destructive raids in different directions by the enemy, requires the command of all the forces that can be summoned for defence. From recent official correspondence submitted to the Department, it appears, on your statement, that you have organized ten thousand or more of the militia of your State, and I am instructed by the President to make requisition on you for that number, and such further force of militia, to repel invasion, as you may be able to organize, for Confederate service. Those within the limits of General Hood's Department will report to him; those outside, to the Commandant of the Department of South Carolina and Georgia.

"Very respectfully, your obedient servant,

"JAMES A. SEDDON,

"Secretary of War."

"EXECUTIVE DEPARTMENT, }
 MILLEDGEVILLE, GA., September 12, 1864. }

"HON. JAMES A. SEDDON, SECRETARY OF WAR.

"Sir:—Your letter of the 30th of last month only reached me by last mail.

"You refer to the fact that I have organized ten thousand of the militia of this State, and say you are instructed by the President to make requisition upon me for that number and such other force of militia to repel invasion as I may be able to organize.

"You preface this requisition by the remark that the condition of my

State, subjected to formidable invasion and menaced with destructive raids in different directions by the enemy, requires the command of all the forces that can be summoned for defence.

"In common with the people of Georgia, I have abundant reason to regret that the President has been so late in making this discovery. This 'formidable invasion' commenced in May last, and has steadily forced its way, by reason of overwhelming numbers, through the most fertile section of Georgia, till its leader is now in possession of the city of Atlanta, menacing the centre of the State, threatening by his winter campaign to cut the last line of railroad that connects Virginia and the Carolinas with Alabama and Mississippi. The President, during most of the time since the campaign against Atlanta began, has had at his command a large force, said to number some 30,000 men, in Texas and Louisiana. Since the brilliant victories achieved by our armies in the latter State early in the season, this large force has had no enemy to confront, except the troops of a few garrisons, who were in no condition to penetrate the interior of the country or do any serious damage. He has also, if correctly reported, had about 20,000 men under General Early invading Maryland and Pennsylvania, thereby uniting Northern sentiment against us and aiding President Lincoln to rally his people to reinforce his armies. About the same time General Morgan was raiding in Kentucky, and General Forrest, the great cavalry leader, has been kept in Northern Mississippi to repel raids after the country had been so often overrun as to leave but little public property for them to destroy.

"Thus, reversing the rule upon which most great generals who have been successful have acted, of rapid concentration of his forces at vital points to destroy the invading army, the President has scattered his forces from Texas to Pennsylvania while a severe blow was being struck at the heart of the Confederacy; and Atlanta has been sacrificed and the interior of Georgia thrown open to further invasion for want of reinforcements to the army of Tennessee. Probably few intelligent men in the country, except the President and his advisers, have failed to see that if Generals Forrest and Morgan had been sent to destroy the railroads over which General Sherman's supplies have been transported for three hundred miles through an enemy's country, and to keep the roads cut for a few weeks, and at the same time the forces of General E. Kirby Smith and Major-General Early, or even half of them, had been sent to reinforce General Johnston, or, after he was superseded, General Hood, the army of invasion might not only have been repulsed and driven back, but routed and destroyed.

"This would instantly have relieved Georgia, Alabama, Mississippi and Tennessee from invasion and raids, and have thrown open the green fields of Kentucky for the support of our gallant troops. As the army of General Sherman is the only protection provided by the Lincoln government for the Western States, and as the battle for the possession of a large portion of the Mississippi Valley, as well as of the Gulf States, was to be fought in Geor-

gia, justice, not only to the people of Georgia, but the people of all the States, required that all the troops which were not actually necessary to the defence of Richmond, and to hold the enemy in check at the most vital points on the coast, should have been concentrated for the destruction of the Federal army in Georgia, which would, in all probability, have brought the war to a speedy termination.

"I have begged the President to send reinforcements to the army for the defence of Atlanta ever since the enemy were at Etowah. But a very small number have been sent, and, if I am correctly informed, part of the troops under General Hood's command have been ordered from this to other States.

"While we have been sorely pressed by the enemy, a camp of 30,000 Federal prisoners has been kept in the rear of our army, which has added greatly to our embarrassments, and has it seems required all the small force of Confederate reserves, organized by Major-General Cobb, with other occasional reinforcements, to guard them. The reserve force organized under the late Conscript Act for the State defence has been thus employed, I presume, by order of the President, and in the hour of her peril Georgia has not had a single one of them at the front with a musket in his hand to aid in her defence. Had the militia been at his command for such service as he might have ordered, and at such place as he might designate, the presumption is that the same remark might have been applicable to them, as other employment could, as in case of the local companies under the President's command, have been found for them at other places while the enemy were besieging Atlanta.

"Another remarkable fact deserves attention. During the whole march of the enemy upon Atlanta, and for more than a month after it was closely invested and shelled by the enemy, it never seems to have occurred to the President to make requisition upon me for the militia of Georgia to aid in repelling this 'formidable invasion' or these 'destructive raids,' and it is only when he is informed that I have an organization of gallant, fearless men, ready to defend the State against usurpations of power as well as invasions by the enemy, that he makes requisition upon me for this force and all others I can organize. I must express my astonishment, however, that you and the President should seem to be ignorant of the fact that this force was organized by me to aid in repelling the army of invasion, that it was placed by me under the command of General Johnston and afterwards of General Hood for the defence of Atlanta, and that the brave men of which it is composed, under the command of the general appointed by the President for the defence of the city, have taken their full share in the dangers, fatigues and sufferings of the campaign, and have acted with distinguished valor both upon the battle field and for over forty days in the trenches around the city of Atlanta, and that they formed the rear guard when Atlanta was evacuated, and brought off with them safe and in good order the reserve artillery of the army which was especially intrusted to them by the Commander-in-Chief. For all this no word of thanks or praise comes from the President to encourage them. They

were militia. Their generals and other officers were not appointed by the President and their services are ignored by him.

"In making this requisition it is quite clear that it was no part of the President's object to get these brave men into service. They were there at the time, in the trenches, among those who were nearest to the enemy, where they never faltered in a single instance. It was not done to produce harmony in the command, for the most perfect harmony has existed between me and both the generals who have commanded the army since the militia were called out, and it is well known that I placed them for the time under the absolute control of the Confederate General commanding. It was not done to increase the number in service at the front, for the President is too familiar with the obstacles thrown in my way by Confederate officers when I have attempted to compel men to go to the trenches, to have committed this mistake. It was certainly not done to cause Georgia to furnish her quota of troops required in like proportion of other States, for she has already furnished more than her just quota, and to every call responded with more than were required, while she has borne the rigors of conscription executed with as much severity as in any other State. I hear of no similar requisition having been made upon any other State. While Georgia has more than filled every requisition made upon her *in common with her sister States*, and has borne her full share of conscription, and has for months had her reserved militia under arms from sixteen to fifty-five years of age, I am informed that even the Confederate reserves of other States from seventeen to eighteen, and from forty-five to fifty, have till very lately been permitted by the President to spend much of their time at home attending to their ordinary business. Without departing from legitimate inquiry as to the cause of this requisition, I might ask why this distinction is made against the good people of this State, and why her Confederate reserves are kept constantly in service, and why requisition is made for her whole militia, when the same is not required of any other State. It is quite clear that it was not made either to compel the State to do her just part, which she has always done, or to put more of her sons into active service for her defence, for every man called for by the requisition was in service before it was made. The President must then have had some other motive in making the requisition, and I think it not uncharitable under all the circumstances to conclude that the object was to grasp into his own hands the entire control of the whole reserve militia of the State, which would enable him to disband its present organization, and place in power over it his own partisans and favorites as major-generals, brigadier-generals etc., etc., in place of the distinguished officers who were appointed to command in conformity to the Constitution of the country and the laws of the State, and who have commanded the organization with so much honor to themselves, satisfaction to the troops, and advantage to the public service.

"Again, it is worthy of remark that the requisition is made upon me for the whole militia of the State—all I have organized and all I can organize—

without limitation of time or place of service. If I comply with it the militia of Georgia, after the President has obtained absolute control over them, may be taken for the war from their State, as tens of thousands of their brave fellow citizens now are, while Georgia and their homes are being overrun. If I am asked to trust the sound judgment and good faith of the President for their discharge and return to their homes at such times as their services are not indispensable in the military field, I cannot forget the faith that was violated last fall to thousands of Georgians who were organized under a requisition from the President to be 'employed in the local defence of important cities, and in repelling in *emergencies* the *sudden* or *transient* incursions of the enemy,' to be employed 'only when and so long as they might be needed,' 'with the privilege of remaining at home in the pursuit of their ordinary avocations unless when called for a temporary exigency to active duty.'

"Thousands of these men, organized for six months' service with the guarantees above mentioned, were called out early in September last and were kept constantly in service till the expiration of their term in March. During most of the time they were guarding no important city. There was no sudden emergency or transient incursion of the enemy, no exigency for the last four months of the time, and still they were kept in service in violation of the faith that had been pledged to them, and were denied the privilege of going home or attending to the 'pursuit of any of their ordinary avocations,' and this too after the contract under which they had entered the service had been pressed upon the consideration of the President.

"It is impossible for the agricultural and other industrial pursuits of the people to be saved from ruin if the whole reserve militia of the State from 16 to 55 are put permanently into the service as regular troops. Judging from the past, I cannot place them at the command of the President for the war without great apprehension that such would be their fate. Indeed, not even the President's promise to the contrary is found in the requisition you now make. I am not, therefore, willing to expose the whole reserve militia of Georgia to this injustice, and our agricultural and other interests to ruin when no other State is required to make any such sacrifice or to fill any such requisition.

"The Constitution of the Confederate States authorizes the States as well as the Confederacy to keep troops in time of war when actually invaded, as Georgia now is. Her militia have been organized and called into active service under her own laws for her own defence, and I do not feel that I am authorized to destroy her military organization at the behest of the President, or to surrender to him the command of the troops organized and retained by her by virtue of her reserved power for her own defence when greatly needed for that purpose, and which are her only remaining protection against the encroachments of centralized power. I therefore decline to comply with or fill this extraordinary requisition. While I refuse to gratify

the President's ambition in this particular, and to surrender the last vestige of the sovereignty of the State by placing the remainder of her militia under his control for the war, I beg to assure you that I shall not hesitate to order them to the front, and they will not shun the thickest of the fight when the enemy is to be met upon the soil of their beloved State. Nor will I withhold them from the temporary command of the Confederate general who controls the army during great emergencies when he needs their aid.

"I shall, however, retain the power to withdraw them and to furlough or disband them for a time to look to their agricultural and other vital interests which would otherwise be ruined by neglect, whenever I see they can be spared from the military field without endangering the safety of the State. Of this the Governor of the State at Milledgeville, where he is near the field of operations and can have frequent interviews with the commanding general, ought to be as competent to judge as the President of the Confederacy some hundreds of miles from the scene of action, charged with the defence of Richmond and all the other responsibilities which require his attention and divide his time.

"Georgia now has upon the soil of Virginia nearly fifty regiments of as brave troops as ever met the enemy in deadly conflict, not one of which ever faltered in the hour of trial. She has many others equally gallant aiding in the defence of other States. Indeed, the blood of her sons has crimsoned almost every battle-field east of the Mississippi from the first Manassas to the fall of Atlanta. Her gallant sons who still survive are kept by the President's orders far from her soil while their homes are being overrun, their wives and children driven out before the enemy and reduced to beggary and want, and their almost idolized State exposed to temporary subjugation and ruin. Experience having shown that the army of Tennessee with the aid of the militia force of the State is not able to withstand and drive back the overwhelming numbers of the army of invasion, as the Executive of Georgia, in behalf of her brave sons now absent in other States as well as of her whole people at home, I demand as an act of simple justice that such reinforcements be sent as are necessary to enable the army upon her soil to stop the progress of the enemy and dislodge and drive him back. In view of the fact that the permanent possession of Georgia by the enemy not only ruins her people, but cuts the Confederacy east of the Mississippi in two, and strikes a death blow at the Confederate Government itself, I trust this most reasonable request will be granted. If, however, I should be informed that the President will send no reinforcements and make no further effort to strengthen our defences, I then demand that he permit all the sons of Georgia to return to their own State and within her own limits to rally around her glorious flag—and as it flutters in the breeze in defiance of the foe, to strike for their wives and their children, their homes and their altars, and the 'green graves' of their kindred and sires; and I as their Executive promise that whoever else may be withdrawn from her defence, they will

drive the enemy back to her borders, or, overwhelmed and stricken down, they will nobly perish in one last grand and glorious effort to wrest the standard of her liberties and independence from the grasp of the oppressor and plant it immovably upon her sacred soil.

"I am very respectfully,

"Your obedient servant,

"JOSEPH E. BROWN."

"CONFEDERATE STATES OF AMERICA,

WAR DEPARTMENT,

RICHMOND, October 8, 1864. }

"HIS EXCELLENCY J. E. BROWN,

"GOVERNOR OF GEORGIA,

"Milledgeville, Ga.

"Sir :—Your letter of the 12th ult. reached me some days since. Its tenor and spirit have caused painful surprise. It requires forbearance in reply to maintain the respect I would pay your station and observe the official propriety you have so transcended. I shall seek to notice only such portions as appropriately pertain to an official communication.

"The department, on the 30th of August, under the direction of the President, made a requisition upon you for the entire militia which had been or should be organized by you, that they might be employed to repel the 'formidable invasion' of Georgia by the enemy, and to secure her from 'destructive raids.' The requisition was for militia in a state of organization. The appointment of the officers of militia is secured by the Constitution to the State from which they are drawn, and in proposing to accept organized militia, the officers legally appointed would necessarily accompany their commands.

"The inducements to this call were several. You had in official communication stated that you had ten thousand militia organized, and you were known to be apparently busy in organizing others. Of these, a portion, it was known, were with the army of Tennessee in some auxiliary relation, and had rendered valuable service with that army in the defence of Georgia. Only a limited number, however, not believed to constitute half of the number reported by you to be actually organized, were so employed, and were, as has been announced by you, held there only at your pleasure, and for such time and during such operations as you might approve. The services of these gallant defenders of their State were so appreciated as to render it desirable that the full number, organized or to be organized, should be secured to repel the formidable invasion threatening to overrun the State; and both to impart greater unity and efficiency to the command of them and enable the general commanding to rely on the period and tenure of their services, it was necessary they should be in Confederate service, and subject not to your judgment or disposal, but to the control of the constitutional commander-in-

chief. It is easy to see how uncertainty as to their control or retention must impair reliance by the commander on these troops, and embarrass all calculations for their employment and efficiency in combined operations. An additional ground of the call was that some of these troops had been detailed for objects not admitted by the enrolling officers in the State to be authorized by Confederate law, and others were claimed as primarily liable, or previously subjected to Confederate service. This had engendered controversy, and endangered collision between the local, Confederate and State authorities which it was most desirable to anticipate and preclude.

"Besides, these militia, as far as they were serving the Confederate army, had to be subsisted from the commissary stores of the Confederacy, and might equitably expect pay from its treasury; but if held as State troops only, both subsistence and pay constituted a charge on the State alone.

"Serious embarrassments had already arisen on these very points, and departure had been necessary from the regular obligations of the Confederate Government, which were not just to either that Government or its disbursing officers. The powers of the Confederate Government to provide for the common defence are exercised according to laws through agencies adopted by Congress. None of these laws contemplated the fulfilment of this duty, by troops organized and held by the State in its own service, and under officers responsible only to it.

"The Constitution of the Confederate States does not *confer* on the State the power to keep troops in time of war. The States are prohibited from 'keeping troops or ships of war in time of peace, entering into any agreement or compact with another State, or with a foreign power, or engaging in war, unless actually invaded, or in such imminent danger as will not admit of delay.' The power of keeping troops in time of war is thus reserved, and naturally includes whatever is necessary to accomplish the object of the reservation, and is limited in its scope and operation only by the Constitution of the Confederate States 'and the laws which shall be made in pursuance thereof.' It does not imply any withdrawal from the Confederate Government, of those instrumentalities and agencies that the Constitution has confided to the Government of the Confederacy for the fulfilment of the obligations it has imposed upon it.

"The powers to declare war, to raise armies, to maintain a navy, to make rules for the government of the land and naval forces, to make rules concerning captures on land and water, to protect each of the States against invasion, which are deposited with Congress, manifest the purpose of the States in forming their Constitution, to charge the Confederate Government with the burden of providing for the common defence. The clause in the Constitution relative to the militia was framed in harmony with the same purpose. The Constitution charges Congress with the organization, equipment, and discipline of the militia, and designates the President as Commander-in-Chief of those that may be called into service.

"It was evidently the design of the Constitution, and of the laws of Congress, in pursuance thereof, which are the supreme laws of the land, that the President should have the discretion and the power of calling this militia into service, and having personally or through Confederate commanders, the disposition and command of them. In a crisis of great peril, and in a case of plain invasion of your State, he has exercised this power, and made the Constitutional requirements on you. You have met it with a distinct refusal.

"This is the first instance in the annals of the Confederacy of the suggestion of a doubt on the right of the President to make such call, and the obligation of compliance by the State Executive.

"During the last war with Great Britain, a question of the kind was made by the Governors of Massachusetts and Connecticut with the President of the then United States. They claimed to decide whether the exigencies existed which authorized the President to make a requisition for militia to repel invasions, and denied his power to associate them with other troops under a Federal officer. They affected to believe the exercise of such a power, imperilled State rights, and promoted personal ambition. The judicial tribunals determined adversely to the pretensions of these Governors, and the country did not fail to discover, lurking under their specious pretences, hostility scarcely less than criminal to the constituted authorities of the Union, an unlicensed ambition in themselves, and a dangerous purpose, in the midst of war, to cripple patriotic efforts for the public defence. The impression was not wanting, either then or since, that they were even in communication with the enemy, or at least proposed to give them encouragement and moral support.

"Without imputing to you such designs, I cannot repress apprehensions of similar effects from your analogous course under the present more trying circumstances, as indeed it must be admitted in all particulars, and especially on the main point of the existence of invasion, there was more plausibility in their case than in yours, on the grounds assigned for refusal.

"On analyzing your Excellency's letter, it is apparent that the prominent and influencing reasons of your action, spring from a spirit of opposition to the government of the Confederate States, and animosity to the Chief Magistrate whom the people of the Confederacy have honored by their choice and confidence. Your reasons may be reduced to the following:

"1. That the campaign in Georgia, not having been controlled by the President, according to your conceptions or with the means you advised, you will not permit any force you can control to be subject to his disposition, but will yourself retain their control and mete out your assistance according to your views of policy and State interest.

"2. That you suspect the President of a design, after the reception of these militia, to disorganize or disband them that he may displace the officers commanding them and substitute his partisans and favorites.

"3. You apprehend that these militia, under the President's control, will be employed for such length of time and under such conditions as will be deleterious to the interests of themselves and the State, and esteem yourself a better judge on these points, especially as to when and where they shall be employed, furloughed, or discharged, etc.

"4. That these troops, besides being necessary as a defence against invasion, are also necessary to defend the State against usurpations of power and as 'a protection against the encroachment of centralized power,' and that the knowledge of the President of their ability and disposition to do this was the motive for the call on you.

"In reference to the first, it might not be safe, as it would not be expedient, now to expose the circumstances of the present campaign, the counsels that guided, or the resources that have been or could be commanded for its operations.

"None should have known more certainly than your Excellency the zeal and energy with which the President and this department, under his auspices, have striven to command resources and means for the defence of Georgia and the overthrow of the invader, nor the impediments and difficulties often unfortunately resulting from the obstruction of the local authorities which they had to encounter. Aware early of the danger that menaced the State, besides concentrating troops from other departments for its defence, this department strained all the powers vested in it for recruiting the army within the limits of Georgia and accumulating supplies for its support. The legislation of the Congress that ended its session in February last had been comprehensive and vigorous.

"Your Excellency cannot have forgotten how that legislation was denounced and the efforts of the department impaired by the countervailing action of the Executive and local authorities of your State. To the department it cannot be imputed as a fault that Georgia was invaded by 'overwhelming numbers.' The ten thousand militia you boast to have organized, without adding to the count those you are proceeding to organize, if incorporated with the veteran regiments prior to the first of May, would have been an invaluable acquisition to the army of Tennessee and not improbably have hurled back the invader from the threshold of your State. That they, or a large proportion of them at least, were not ready for that service and other auxiliary means to its operations were not afforded, I am bound to think was due to the obstacles and embarrassments interposed by your Excellency and the local authorities, with your countenance, to the enforcement of the Acts of Congress for the recruitment and maintenance of the armies. Your Excellency may not have foreseen and realized the extent and import of the approaching invasion, but to whom then with most safety and wisdom (apart even from constitutional obligation) can the disposition and command of the troops in question be committed?

"In your second reason it is difficult to find anything but the ascription

to the President of an unworthy design—a design that cannot be accomplished without disappointing the objects which I have explained as the cause of the requisition. The disbanding of the militia organizations after their call into service would result in the discharge of such of the men as are not liable to service under the Act of Congress of February last, and those who are liable, in such an event, would be placed in those veteran regiments raised for Confederate service in the State of Georgia prior to April, 1862, whose diminished numbers attest the fidelity, valor, and suffering with which they have performed their duty. Whether, therefore, the militia be retained in their militia organizations, as is contemplated, or be disbanded as you apprehend may be done, in neither event can new organizations be made or new officers appointed. Your suspicions as to the motives and designs of the President are simply chimerical.

“In your third reason your Excellency has apparently forgotten the true inquiry, where, constitutionally and legally in all such matters, the discretion of decision is lodged, and further, that a provision adequate in the view of Congress against abuse has been provided in the limitation of time for which the militia may be called out to six months. In illustrating the danger of undue detention in Confederate service your Excellency refers to the course pursued towards the troops for local service enlisted by you last fall under a call from the department. During the last winter your Excellency addressed to this department an acrimonious letter on this subject, which was replied to in a spirit of forbearance and with a careful abstinence from the use of recriminating language.

“Justice to myself demands that I should place upon the records of the department the facts to which you have again alluded in the same language of acrimonious reproach. It had been designed to raise troops for special defence and local service as the general rule throughout the State, to constitute a part of the provisional army, and to be subject to the call of the President when needed. You asked to supervise and control the whole matter, and unfortunately the privilege was yielded.

“You abused it to form nondescript organizations, not conforming to the regulations of the provisional army, scant in men and abounding in officers, with every variety of obligation for local service, generally of the most restricted character, and for the brief period of only six months. Thus it was that you were enabled to indulge the vain boast of raising some sixteen thousand men for the defence of the State, while in fact scarce a decent division of four thousand men could be mustered for the field, and those only for six months' service. From the time they were passed to Confederate service there was pressing necessity for their presence in the field, for Georgia was not only menaced, but actually invaded, and the number was too limited to allow substitution or furlough. Apart from this, you persistently claimed that they should be held and regarded as militia. In that view, they could not if dismissed be recalled on emergency as local troops, and this

naturally induced their detention for the full period of their limited term of service.

"To your last reason I refrain from replying as its character would justify. I cannot think the significancy of the language quoted has been duly appreciated by your Excellency. I prefer to consider them as inconsiderate utterances rather than the foreshadowing of a guilty purpose to array your State in armed antagonism against the Confederacy, and so to betray the cause of herself and sister States.

"Such purpose I know would be scorned and rebuked by her heroic soldiery and loyal people, and it will not, while it be possible to avoid it, be ascribed by me to one whose official station makes him their recognized organ. I must, however, gravely regret that the spirit of your Excellency's past action and public expressions has caused grievous misconceptions in relation to the feelings and purposes of yourself, and perhaps of others of influence in your State, in the convictions of our enemies to their encouragement, and the mortification of many patriotic citizens of the Confederacy.

"Our enemies appear to have conceived you were even prepared to entertain overtures of separate accommodation, and that your State, so justly proud of its faith, valor and renown, could be seduced or betrayed to treachery and desertion. So painful a manifestation of the hopes inspired by your indulgence of resentments and suspicions against the Confederate Administration will, it is hoped, awaken to consideration and a change of future action. To the department it would be far more grateful, instead of being engaged in reminding of constitutional obligations and repelling unjust imputations, to be co-operating with your Excellency in a spirit of unity and confidence, in the defence of your State and the overthrow of the invader.

"Very respectfully, your obedient servant,

"JAMES A. SEDDON,

"Secretary of War."

"EXECUTIVE DEPARTMENT, }
MILLEDGEVILLE, GA., }
November 14, 1864. }

"HON. JAMES A. SEDDON, SECRETARY OF WAR.

"Sir:—Official engagements have prevented earlier attention to your letter of 8th ult., which reached me on the 20th.

"You are pleased to characterize a portion of my letter as acrimonious, and claim that I have transcended the bounds of official propriety, and seem to desire me to understand that you labor under difficulties in restraining yourself within the bounds of forbearance in your reply. As the acrimony of my letter consisted in a simple narrative of truths, communicated in a plain straightforward manner, calling things by their right name, I feel that I am due you no apology. Of course no personal disrespect was intended. I am dealing not with individuals, but with great principles, and with the conduct

of an administration of the government, of which your department is but one branch. And if you will not consider the remark acrimonious, I will add that the people of my State, not being dependent, and never intending to be, upon that government for the privilege of exercising their natural and Constitutional rights, nor the Executive of the State for his official existence, I shall on all occasions feel at liberty to exercise perfect independence in the discharge of my official obligations, with no other restraints than those thrown around me by a sense of duty, and the Constitution of my country, and the laws of my State.

"You remark that this is the first instance in the annals of the Confederacy of a suggestion of a doubt on the right of the President to make such a call, and the obligation of compliance by the State Executive. Doubtless you are right, as this is unquestionably the first instance in the annals of either the old or new Confederacy of *such* a call, made by the President. It presents the isolated case of an attempt by the President to single out a particular State, and, by grasping into his own hands its whole military strength, to divest it of its last vestige of power to maintain its sovereignty; not only denying to it the right plainly reserved in the Constitution to keep troops in time of war when actually invaded, but claiming the power to deprive it of its whole militia and leave it not a man to aid in the execution of its laws, or to suppress servile insurrection in its midst.

"The President demands that Georgia shall turn over to him, and relinquish her command and control over every militiaman now organized by her Executive, and all he *may be able* to organize. The militia is composed mainly of a class of men and boys, between ages not subject by the laws of Congress or of the State to serve in the Confederate armies. The President calls for all the State has of the above description. As no *such* requisition was ever before made upon any State, and it probably never entered into the mind of any statesman that *such* a call ever would be made, it never became necessary to question the right to make it.

"You cite the case of the refusal of the Governors of Massachusetts and Connecticut, during the last war with Great Britain, to furnish troops for the common defence upon the requisition of the President of the United States, and say it must be admitted that my course is *analogous* to theirs 'in all particulars,' and that there was more plausibility in their case than in mine, on the grounds assigned for refusal. Let us test this statement by the standard of truth. You say the cases are analogous 'in all particulars.' I deny that they are analogous in any particular. To show the character of that call, I quote the language of President Monroe :

"'It will be recollected that when a call was made on the militia of that State, for service in the war, under an *arrangement* which was *alike applicable to the militia of all the States*, and in conformity with the acts of Congress, the Executive of Massachusetts refused to comply with the call.' That, then, was a call under an arrangement *alike applicable to the militia of all the*

States. This is not a call made under an arrangement *àlike applicable* to the militia of *all the States*, or indeed of *any of the other States*. This is a call for all the militia which the Executive of Georgia has organized or *may be able* to organize. No *such call* was made by the President upon the militia of any other State. The analogy fails then at the very first step. But let us trace it a little further. That was a call for men within the age required to do military service in the armies of the United States. This is a call for men who are exempt by act of Congress from all service in the Confederate armies, and of whom it is expressly declared, by an act of the Legislature of Georgia, that they shall not be 'liable to any draft or other compulsory process to *fill any requisition* for troops upon the Governor of the State by the President of the Confederate States.' That was a call which the President could legally make, and which the Governors had lawful authority to fill. This is a call which the President had no lawful right to make, and which the Governor could not fill without violating a positive statute of his State. That was a call for active militia who were not in service, but were at home attending to their ordinary pursuits. This is a call for reserve militia, who, at the time it was made and for months past, had been in actual service—most of the time in the trenches around Atlanta, under the constant fire of the guns of the enemy. In that case, the Governors of Massachusetts and Connecticut refused to place the militia of those States under the command of a Federal general. In this case the militia had already been placed by the Governor of Georgia under the command of a Confederate general, where they were on the very day the call was made, and had been for some months previous.

"In that case, the Governors of those States adjudged that no emergency existed to justify the call for the militia, after the President had decided that it did, and they refused to order them into the field. In this case, the Governor of Georgia admitted that the emergency did exist, and had ordered them in, months before the President saw the emergency and called for the services of the militia. In that case, the President was making an honest effort to get the militia of Massachusetts and Connecticut into service, to aid in repelling any assaults that might be made by the enemy. In this case, the President, after the reserve militia of Georgia had been called out by the Governor and put into active service, was using his official influence as shown by General Orders Nos. 63 and 67, issued by his Adjutant-General, to get the militia of Georgia out of service, where they were confronting the enemy and shedding their blood in the defence of their State.

"When they were in the trenches under the fire of the enemy, the President held out, as a reward for their delinquency in case of their desertion from the State militia and return home, a guarantee of the privilege of remaining there in local companies, to be called out only in emergencies to defend their own counties and vicinage.

"I append to this letter, paragraph 1, General Order No. 63, and a para-

graph of General Order No. 67, by reference to which it will be seen that *all detailed men were required*, and *all exempts* from Confederate service invited to enroll themselves in local companies at home, with promise that they should be called out only in emergencies to defend the counties of their residence and contiguous counties.

"The present militia of Georgia are composed of *exempts* from Confederate service and such *detailed* men as are not in the military service of the Confederate States. The militia of the State, *then* at the front, was composed of men of these classes only. The order was addressed to *all* men of both classes. The President denied the right of the Governor of Georgia to call out the detailed men for service, and would, if consistent, stand ready to protect them in case they would desert the militia service and return home and join his local companies. Thus the strong temptation of remaining at home was held out by the President to these men if they would ingloriously abandon Atlanta when beleaguered by the enemy, and, after desertion from the militia, enlist in Confederate service, which would give the President the entire command of them and enable him to destroy the militia organization of the State. Fortunately, the temptation succeeded in inducing but a small portion of the militia to desert and return home. They were generally true men and stood gallantly by their colors, knowing their country needed their services at the front and not in local companies in the rear. General Order No. 63 was issued on the 8th of August and was followed by General Order No. 67 on the 16th of the same month. The President then waited two weeks and as the militia still remained in the trenches around Atlanta he found it necessary to change his policy and resort to a requisition upon me for the whole militia of the State as the only means left of accomplishing his objects.

"President Madison offered no such inducements to and made no such requisition upon the militia of Massachusetts and Connecticut. So much for the analogy of the two cases. But you are as unfortunate in your facts as in your analogy, as will be further seen by your statement that the 'judicial tribunals determined adversely to the pretensions of the Governors.' By reference to the 8th volume Massachusetts Reports Supplement, page 549, you will find that the judges of the supreme court of that State had the case before them and determined every point made by Governor Strong in his favor and 'adversely to the pretensions' of the President.

"But you remind me that the 10,000 militia, which you say I had organized, with those I was proceeding to organize, if incorporated with the veteran regiments prior to the first of May, would have been an invaluable acquisition to the army of Tennessee and not improbably have hurled back the invaders from the threshold of my State. If this were true and the movements and strength of the enemy were so much better understood by the President than by myself, as you would have the country believe, why was it that the President made no call for the militia in May when the armies were

above Dalton? Why was the call delayed till the 30th of August, two days before Atlanta fell, and then mailed to me too late to reach Milledgeville till after the fall? If the control of the whole militia of the State by the President was so essential to the defence of Atlanta, how do you account for the neglect of the President to call for them till after the campaign had ended in the surrender of the city to the enemy?

"Seeing that the President did not seem to appreciate the emergency and the danger to Atlanta, upon consultation with that far-seeing general and distinguished soldier, Joseph E. Johnston, I had ordered the militia to report to him and aid the gallant army of Tennessee. I first ordered out the civil and military officers of the State, when the armies were near Dalton, and afterwards called out the reserved militia, including all between sixteen and fifty-five years of age, when they were at Kennesaw. During all this time and for nearly two months afterwards no call was made by the President for their services. If the statements you now make are correct, surely such neglect by the President in so critical an emergency involves little less than criminality.

"Again you state as one of the inducements to the call that I had stated in official correspondence that I had *ten thousand militia* organized—that a portion of these were known to be with the army of Tennessee in some auxiliary relation—only a limited number, however, not believed to constitute half the number reported by me to be actually organized.

"You are again incorrect in your facts and, unfortunately, ignorant of the strength of the force that was under your command.

"In the official correspondence to which I suppose you allude, I did not state that I had organized *ten thousand militia*. The language used was, 'nearly ten thousand armed men.' At that time the two regiments of the State Line, who are regular troops for the war, numbered nearly fifteen hundred. They too were placed under the Confederate commander and nearly five hundred of them while under his command have been disabled or lost upon the battle-field. But if I had made the statement as you incorrectly charge, it would have been true.

"The tri-monthly report forwarded by Major-General G. W. Smith, who commands the division of State militia, to General Hood, dated September 10, 1864, but a few days after the fall of Atlanta, showed upon the muster rolls of his division nine thousand one hundred and seventy men. This report did not include the regiment of Fulton county militia, which had been detached for local service in the city under the command of Brigadier-General M. J. Wright of the Confederate army; nor the regiment of Troup county militia which was stationed by the commanding general at West Point under Brigadier-General Tyler of the Confederate army. Nor did it include the two regiments of the State Line which had been ordered into other divisions of the army of Tennessee. Nor did it include the battalion of cadets of the Georgia Military Institute, who did gallant service in the trenches of

Atlanta. Nor did it embrace the names of the gallant dead of this division, who never turned their backs to the enemy but fell upon the battle-field or died in the hospital. These had rendered the last service in the power of the patriot to his country before the President saw the necessity which induced him to call for them, and as they slept at the date of his call in the soldiers' grave they were, unfortunately, unable to respond. But if you say that the whole ten thousand were not in the trenches with muskets in their hands, I reply that, while many were sick and some absent without leave, a larger proportion of the number upon the muster rolls were there than of probably any other division in General Hood's army, and, judging from the late speech of the President in Macon, a much larger number than the usual average in the armies of the Confederacy.

"As I understand your letter, you deny that it was the purpose of the President to disband or disorganize the militia, and say he intended to take the organization with all its officers and maintain it. I do not pretend to quote your language, but state what I understand to be the substance. Unfortunately your own record contradicts you. In the requisition made by you occurs this sentence: 'Those within the limits of General Hood's department will report to him; those outside to the Commandant of the department of South Carolina and Georgia.' The line between these departments cuts in two General Smith's division and probably three of the four brigades of which it is composed, and the requisition orders that part of this division and those brigades on one side of it to report to General Hood, then at Atlanta, and that part on the other side, to the Commandant whose headquarters were at Charleston. But this was not all; it amounted to an order in advance, if I responded to the call, to a large proportion of the militia then under arms to leave Atlanta in the very crisis of her fate and return home and report to General Jones whose headquarters were at Charleston. This would not only have permanently divided and disbanded the militia organization as it existed under the laws of the State, but would have aided the President in carrying out his policy already referred to of withdrawing the militia from Atlanta before its fall, and compelling armed men then aiding in its defence to leave and report to a Commandant upon the coast where there was no attack anticipated from the enemy. So determined was the President to accomplish both these objects that he did not pretend to conceal his purpose, but incorporated it into the requisition itself.

"Past experience has also shown that the President will surmount all obstacles to secure to himself the appointment of the officers who are to command troops under his control. Soon after the commencement of the war Georgia tendered to him an excellent brigade of her most gallant sons, fully armed, accoutred and equipped with two months' training in camp of instruction. He refused to accept it as it was, but disbanded it and, refusing to recognize the commanding general (though every officer, I believe, in the brigade, from the highest to the lowest, petitioned to have him retained), scattered the

regiments into other brigades. The twelve months' men entered the service with officers elected by them, and he accepted them with their officers. The Constitution of the Confederate States, as I have heretofore most conclusively shown, and as the Legislature of the State has resolved, as well as the laws of the State, authorize them to elect officers to fill all vacancies that occur. The President has disregarded this right, and claims and exercises the right to appoint all such officers for them. His past course, as well as the plain language of the requisition, shows that you misrepresent the President when you deny that it was his purpose in making the requisition to disband the militia; and I am satisfied that I do him no injustice in supposing that it was his intention, after they were disbanded, to appoint his own partisans and favorites to command them.

"Reference is made in your letter to the act of Congress to show that the President could only hold the militia six months under a call upon the Governor for their services. You seem to forget that many of those then in service for whom he called had already served nearly four months. And you seem to suppose that I will be unmindful how easy it would be at the end of six months for the President simply to renew the call for another six months, and continue this to the end of the war, and in this way keep the old men and boys of Georgia constantly in service to the destruction of all her agricultural and other material interest, while no such requirement is made of any other State. But if this were not possible by these repeated calls, what guaranty have they under the act of Congress and the promise of the President that they would be disbanded at the end of six months? The original twelve months' men entered the service under the like protection, as they supposed, of an act of Congress and a solemn contract with the President that they should be discharged at the end of their time. But before the time expired the President procured another act of Congress which changed the law on that subject, and he then refused to be bound by his contract, and those of them who survive are yet in service near the end of the fourth year. Even the furloughs promised them were not allowed. And ministers of religion who made a contract with the Government to serve for one year, and others who agreed to serve three years in the ranks, are held after the expiration of their time, when they would be embraced in the exemption act, which protects those at home if the Government had kept its faith and discharged them according to the contract.

"In this connection I must also notice your remarks in reference to the six months' men of last fall in this State. And as every material statement you now make upon that subject is contradicted by the records of your department, made up over your own signature, the task is an unpleasant one.

"You say 'it had been designed to raise troops for special defence and local service FOR THE WAR with the obligation of service as the *general rule throughout the State*, to constitute a part of the provisional army, and to be subject to the call of the President when needed.' If this statement means

anything, it is intended to mean that the call was made on me for the troops to serve *for the war*, with obligation, as the *general rule*, to do service *throughout the State*. That is what you now say. What did you then say? I quote from your requisition of 6th June, 1863.

“ ‘The President has therefore determined to make a requisition on the Governors of the several States, to furnish by an appointed time, for service within the State, and for the *limited period of six months*, a number of men,’ etc. Again, in the same requisition you say, ‘I am instructed by the President, in his name, to make on you a requisition for eight thousand men, to be furnished by your State, for the period of *SIX MONTHS* from the *first day of August next*, unless in the intermediate time a volunteer force organized under the law for *local defence* and *special service*, of at least an equal number, be mustered and reported as subject to his call for service within your State.’

“This does not look much as if the call was made for troops **FOR THE WAR!** Was it for troops to serve as the *general rule throughout the State*? I quote from the same document. You say, ‘it becomes essential that the reserves of our population capable of bearing arms, etc., be relied on for employment in the *local defence* of *important cities*, and in repelling in *emergencies* the *sudden* or *transient* incursions of the enemy.’ Again, ‘local organizations or enlistments by volunteering for *limited periods* and *special purposes*, if they can be induced, would afford more assurance of prompt and efficient action.’ You then refer to the two acts of Congress for local defence and special service, and enclose copies of them and call my attention to them. And you proceed to say, ‘under the former of these, if organizations could be effected, with the *limitations prescribed in their muster rolls*, of service *only at home* or at *specified points* of importance within the particular State, they would be admirably adapted to obtain the desired end.’ In speaking of the inducements to be held out to those who will form volunteer companies under the act of Congress, you speak of them as ‘organizations for *special service* within the State, under officers of their own selection, and with the privilege of *remaining at home* in the pursuit of their *ordinary avocations*, unless when called for a *temporary exigency* to active duty.’ In reference to the service to be performed by these organizations, you then use this language:

“ ‘Without the general disturbance of a call on the militia, the organizations *nearest to the points of attack* would always be readily summoned to *meet the emergency*, and the population *resident in cities and their vicinities* would, without serious interruption to their *business or domestic engagements*, stand organized and prepared to man their entrenchments and defend, under the most animating incitements, their property and homes.’

“You remark again, ‘After the most active and least needed portion of the reserves were embodied under the former law, the latter would allow *smaller organizations* with *more limited range* of service, for objects of police and the pressing contingencies of *neighborhood defence*. Could these laws be

generally acted on, it is believed, as full organizations of the reserve population would be secured for *casual needs* as would be practicable.'

"There is not a word in any of this about service as the *general rule throughout the State*. But every impression looks to *local and limited services* in sudden emergencies, such as the sudden incursions of the enemy, and to the defence of their own homes and the entrenchments around them, by those who live in cities, 'to neighborhood defence,' 'casual raids,' etc., with the clear promise to all that, so soon as the emergency had passed they should be permitted to return home and attend to their 'ordinary avocations,' their 'business or domestic engagements,' etc. The troops recollect how this promise was kept.

"But you charge that I had formed nondescript organizations not conforming to the regulations of the provisional army, scant in men and abounding in officers, with every variety of obligation for local service, generally of the most restricted character, and for the *brief period of only six months*.

"Each organization formed by me was in conformity to the statutes, copies of which you enclosed as the guide for my action, and for the exact time designated in your requisition over your own signature. Each had the number of men specified in the statutes, and no one of them had a supernumerary officer, with my consent, or so far as I know or believe. The requisition expressly authorized me to accept troops for local defence, of the most restricted character, with 'the limitations prescribed in their muster rolls of service *only at home* or at *specified points* of importance.' But while you expressly authorized this I refused to do it, except in case of companies of mechanics and other workmen in cities—the operatives in factories, and the employees of railroads, etc., when the nature of their avocations made it actually necessary. In all other cases I refused to accept the companies when tendered, if their *muster rolls* did not cover and bind them to defend, at least one-fourth of the whole territory of the State. Many of them covered the whole territory of the State with the conditions of their muster rolls. Some complaints were made at my course, because I required more than was required by either the acts of Congress, or the requisition of the Secretary of War.

"Another charge is, that when called out 'scarce a decent division of four thousand men could be mustered for the field, and then *only for six months*.' Your obliviousness of facts, as well as of records, is indeed remarkable. Only those whose *muster rolls* embraced Atlanta and the territory between it and the Tennessee line were called out till near the end of the period for which all were enlisted, and you got a division of many more than four thousand within that boundary.

"The others, over twelve thousand, were at home, engaged in their 'ordinary avocations,' ready to respond to your call in case of an 'emergency,' or 'sudden incursion of the enemy.' But you never called for any of them till

a short time before the end of the term of their enlistment. Those you then called out you never even armed, and it was believed by them that they were only assembled for the convenience of the conscript officers, to save them the trouble of searching through the country to see if any among them were subject to conscription. Nobody pretended that there was any 'emergency' or 'sudden incursion of the enemy' at the time of the last call, in the sections of the State they had agreed to defend. I have gone thus fully into this record for the purpose of showing the palpable injustice which you attempt to do me, and of exposing the flimsy pretext under which you seek to defend the bad faith which was exercised by the Government towards the gallant men who, by their prompt response, more than doubly filled your requisition in its letter and spirit.

"As a last means of escape you say I persistently claimed that they should be held and regarded as militia. 'In that case they could not, if dismissed, be recalled on emergency as local troops, and this naturally induced their detention for the full period of their limited term of service.' I should have been greatly obliged if you had given a reason why militia mustered into service for the period of *six months*, with the express promise that they should be permitted to remain at home in the pursuit of their 'ordinary avocations,' except in 'emergencies' or to meet 'sudden and transient incursions of the enemy,' could not receive furloughs and return home between 'emergencies' and 'sudden and transient incursions of the enemy,' and re-assemble on the recurrence of the emergency. Why could not the same men, living in the same district, united for the same purpose, to defend the same territory against 'sudden and transient incursions of the enemy,' have received furloughs to return home and attend to the pursuit of their 'ordinary avocations,' if called militia and commanded by officers appointed as the Constitution provides, by the States, as well as if called local companies, and commanded by officers appointed by the President? What strange magic is there about the President's commission which would enable men, organized for service under officers holding it, to receive furloughs when not needed for service, which the same men, organized for the same service, could not get if their officers received their commissions in the constitutional mode from the State? If the same companies, composed of the same officers and men, may be temporarily dismissed when not needed for the service they have engaged to render when called by the name 'local companies,' why may this not be done when they are called by the name militia?

"As no reason can exist for the distinction you attempt to draw as a justification of the President's conduct, none was assigned by you. It is simply absurd to say that the militia cannot be furloughed and sent home when not needed, to be recalled when needed. But for the interruption of our militia organization, which grew out of the Conscript Act of February last, instead of ten thousand, I could have sent nearer thirty thousand to Atlanta, to aid in its defence.

"The Legislature, unfortunately for Georgia, turned over to the President's control that part of the organized militia within the ages specified in the act of Congress and, when the hour of peril came, out of all the large number embraced in the act of Congress, and turned over to his control by the resolution of the Legislature, he had not a single one at the front with a musket in his hands, to aid in the defence of the State. Of all the Confederate reserves, to which the State was told she might safely look for defence, not a man with a musket in his hands was at the front during the whole march of the Federal army from Dalton till its triumphant entrance into Atlanta. And if action had been delayed until the President called, as shown by the date of his call, not a man of all the reserve militia of the State would have been there. The Confederate reserves organized were not sufficiently numerous to guard the unarmed Federal prisoners in the State, and I had to furnish, when their services were much needed at the front, a battalion of militia to aid them.

"The interruption by the State authorities, to which you refer, is entirely imaginary. After the decision of the Legislature, your officers were left perfectly free to execute the law of Congress in all its rigor. But if it were real, surely the President, with the aid of his large force of officers in this State, should have been able to get somebody to the front. A single man with a good musket might have rendered some assistance. Or if this, by reason of inefficiency, could not be done, if he had ordered his corps of conscript officers there, as I ordered the State officers, they were sufficiently numerous to have done essential service. For even this favor, at that critical period, the people of Georgia would have been under great obligations to him.

"I must not forget another ground of the call, as you term it, which was that some of these troops (the ten thousand organized militia) had been detailed for objects not admitted by enrolling officers in the State to be authorized by Confederate law, and others were claimed as primarily liable, or previously subject to Confederate service. This, you say, had 'engendered controversy,' which it was most desirable to 'anticipate and preclude.' As Confederate enrolling officers had denied the right of the State to make details, and had claimed certain men whom the Governor held as a part of the militia of the State, and as the Governor did not at once yield to the pretensions of those Confederate officers, but was disposed to contend for the rights of the State, the President, unwilling to allow the controversy, determined to relieve the State of her *whole* militia, by making requisition for it, and taking it *all* into his own hands, which would 'anticipate and preclude' any further controversy; as the State, having no militia left, need have no further controversy about her right to any particular individuals as part of it.

"This new discovery of the President of the mode of settling a controverted right, and the magnanimity and statesmanship displayed by him in

this affair, cannot be too highly appreciated. By imitating his example in future, the stronger party can always make a speedy settlement with the weaker, without allowing any unpleasant controversy about rights.

"Your assertion, that my past action and public expressions have given encouragement to our enemies, to the mortification of many patriotic citizens of the Confederacy, may be properly disposed of by the single remark, that if we may judge of the encouragement of our enemies by the general expression of their public journals, the President gave them more delight, hope, and encouragement, by his single speech at Macon, than all the past acts and public expressions of my life could have done, had I labored constantly to aid and encourage them. He who can satisfy the enemy that two-thirds of the men who compose our gallant armies are absent from their posts, affords them delight and encouragement indeed, as they will no longer doubt, if this be true, that the spirit of our people is broken, and that our brave defenders can no longer be relied on to sustain our cause in the field. All remember the mortification which this speech of the President caused to the patriotic citizens of the Confederacy. If it had been true, surely it should not have been publicly proclaimed by the President. But I am satisfied it was not true, and that, in making the statement, the President did grievous injustice to the brave men who compose our gallant, self-sacrificing armies.

"It has also been agreeable to you to speak of my action as *springing* from a spirit of *opposition to the Confederate Government*, and animosity to the Chief Magistrate. I have but a word of reply to this unjust and ungenerous attack. Some men are unable to distinguish between opposition to a government and unwillingness blindly to endorse all the errors of an administration, or to discriminate between loyalty to a cause and loyalty to their master. My loyalty is only due to my country; you can bestow yours where your *interest* or inclinations may prompt.

"I do not consider that the point you attempt to make about the pay and subsistence of the militia, while under the Confederate general commanding the department, has in it even a show of plausibility. They were accepted by him for the time as an organization, and, while under his control, he has the absolute command of them, and the Governor of the State does not exercise the slightest control over them. What possible pretext for saying that he may not order this division subsisted and paid as well as any other division under his command? There is just as much reason for saying that a division of Georgians under Gen. Lee should not be subsisted and paid by the Confederacy, while under his command, as that this division under Gen. Hood should not be subsisted and paid while he commanded them. The truth at the bottom of all this is so visible that it cannot be concealed even by an attempt to muddy the water.

"I find the statement emphasized by you, that the Constitution of the Confederate States does not *confer* on the States the power to keep troops in time

of war. As the States were sovereign and possessed all power when they formed the Constitution which gave life to the Confederate Government, neither that Government nor the Constitution could *confer* any power on the States. They *retained* all that they did not *confer* upon it. But admit your statement, and what follows? You were obliged to admit in the next sentence that the States did *reserve* that power. Having reserved it, they are certainly authorized to *exercise* it. As you admit, they not only reserved the power, but the reservation naturally includes whatever is necessary to accomplish the object of it. But you then attempt to explain it away, by denying that the reservation means anything, and, in effect, contend that the Confederate Government may take from the State the last one of the troops which she has reserved the power to keep, without violating the reserved rights of the State. In other words, the State has plainly reserved the right to keep troops in time of war when actually invaded. But this right you, in effect, say is subordinate to the will of the President, who may take the last one of them from her whenever he chooses to do so.

"According to your mode of reasoning, if a State or an individual delegates certain powers to an agent, and reserves certain other powers, the reserved powers are limited by and subordinate to the delegated powers, and may be entirely destroyed by them when, in the opinion of the agent, this is necessary to enable him to execute, to their fullest extent, the delegated powers. In other words, the reserved powers are to be construed *strictly*, and the delegated powers liberally, and the reserved are to yield to the delegated whenever there is apparent conflict. I confess I had not understood this to be the doctrine of the State Rights or Jeffersonian school. I had been taught that the delegated powers are to be construed strictly, and in case of a delegation of powers with certain reservations, that the delegated powers are limited and controlled by the reserved powers. This well-established rule is repudiated by you when it conflicts with the purposes of the Confederate administration, and you claim that the power reserved by the States to *keep* troops in time of war, when actually invaded, simply means that they may keep them till the Confederate Executive chooses to call for and take the last one of them out of their control.

"To justify all this, you are driven to the usual plea of necessity. You say it was necessary that the whole militia of Georgia should be in Confederate service, and subject, not to my judgment or disposal, but to the control of the constitutional commander-in-chief.

"I deny that the President is, or ever can be, without the consent of the State, the constitutional commander-in-chief of the *whole* militia of the State. When we take the whole context together, the Constitution is plain upon this point. He is declared to be the commander-in-chief of the army and navy of the Confederate States and of the militia of the several States *when called into actual service* of the Confederate States.

"Congress has power to provide for calling forth the militia to execute the

laws of the Confederate States, suppress insurrections, and repel invasions. Congress has power to provide for organizing, arming and disciplining the militia, and for governing *such part* of them as may be employed in the service of the Confederate States. Then comes the qualification. The States reserve the right to keep troops in time of war, when actually invaded. If she is not invaded, under provision made by Congress, they may be called forth if the emergency requires it. If she is invaded, she may *keep* such part of them as she thinks proper, under her reserved right, and they cannot be taken without her consent. The whole case is in a nutshell. Congress may provide for calling forth the militia, and for governing *such part* of them as are employed in the service of the Confederate States. The President is, for the time, commander-in-chief of all who are so *employed*. And all may be so *employ-ed*, except such as the State determines to *keep*, by virtue of her reserved right in time of war, when actually invaded. These Congress has no right to call forth, and no right to provide for governing; and of these the President is not the constitutional commander-in-chief, but the Governor of the State is, so long as the State *keeps* them, and she has an unquestionable right to *keep* them as long as the invasion of her territory lasts.

"This I understand to be the constitutional right of the State of Georgia. By this, as her Executive, I stand, and regard with perfect indifference all assaults upon either my loyalty or motives by those who deny this right, or seek to wrest it from her to increase their own power or gratify their own ambition.

"A word as to the use I shall make of this militia and of all the troops at the command of the State. No sentence in my former letter is an 'inconsiderate utterance.' No word in it justifies the construction that I will array my State in 'armed antagonism against the Confederacy.' On the contrary, I will use the troops to support and maintain all the just rights and constitutional powers of the Confederacy to the fullest extent. No State is truer to the *Confederacy* than Georgia; and none will make greater sacrifices to maintain its rights, its just powers, and its independence. The sacrifices of her people at home, and the blood of her sons upon the battle-field, have abundantly established this truth. But while I will employ all the force at my command to maintain all the constitutional rights of the Confederacy and of my State, I shall not hesitate to use the same force to protect the same rights against external assaults and internal usurpations. Those who imagine themselves to be the Confederacy, and consider only loyalty to themselves as loyalty to it, and who recognize in neither the people nor the State any rights which conflict with their purposes or future designs, doubtless see in this the 'foreshadowing of a guilty purpose.' It is, to say the least of it, a fixed purpose.

"It is not only my right, but my duty, to uphold the constitutional rights and liberties of the people of Georgia by force, if necessary, against usurpations and abuses of power by the central Government. The militia is, under the

Constitution, one of the proper instrumentalities for that purpose. There is scarcely a single provision in the Constitution for the protection of life, liberty, or property in Georgia, that has not been and is not now constantly violated by the Confederate Government through its officers and agents.

"It has been but a short time since one of the stores of the State of Georgia, containing property, in the peaceable possession of the State, was forcibly entered by a Confederate officer and the property taken therefrom by force. I had no militia present at the time to repel this invasion of the rights of the sovereign State, but should have had them there soon if the property had not been restored.

"A single Confederate provost marshal in Georgia admits that thirty citizens and soldiers have been shot by his guard, without his right to shoot citizens being questioned till within the last few days, when he was greatly enraged that a true bill for murder should have been found by a grand jury against one of them for shooting down a citizen in the streets who offended him by questioning his authority over him. Every citizen in the State, both man and woman, is arrested in the cars, streets and highways, who presumes to travel without a pass. They are arrested without law, and imprisoned at pleasure of Government officials. The houses, lands, and effects of the people of Georgia are daily seized and appropriated to the use of the Government or its agents without the shadow of law, without just compensation, and in defiance of the decision of the supreme judicial tribune of the State; and her officers of justice are openly resisted by the officers of the Confederate States. The property of the families of soldiers now under arms to sustain the Confederacy is forcibly taken from them without hesitation, and appropriated in many cases without compensation.

"In this state of things the militia are necessary to uphold the civil tribunal of the State, and will be used for that purpose whenever the proper call is made by the proper authorities.

"No military authority, State or Confederate, can be lawfully used for any other purpose than to uphold the civil authorities, and so much of it as the Constitution of my country has confided to my hands shall be used for that purpose, whether civil society, its Constitution and laws shall be invaded from without or from within. Measured by your standard, this is doubtless disloyalty. Tested by mine, it is a high duty to my country.

"Respectfully, etc.,

"JOSEPH E. BROWN."

" CONFEDERATE STATES OF AMERICA. }
WAR DEPARTMENT, RICHMOND, VA., December 13, 1864. }

"HIS EXCELLENCY JOSEPH E. BROWN,
GOVERNOR OF GEORGIA,

Macon, Ga.

"Sir:—Your letter of the 14th ult. has been received. In accordance with the rule I have prescribed to myself in my correspondence with you, I shall avoid all notice of the observations in your letter which do not in my opinion form matter proper for official communication; and therefore much of your letter will have no response.

"An act of Congress of the 27th of February, 1861, provided: 'That to enable the Government of the Confederate States to maintain its jurisdiction over all questions of peace and war, and to provide for the public defence, the President be, and he is hereby authorized and directed to assume control of all military operations in every State, having reference to or connection with questions between said States, or any of them, and powers foreign to them.' On the 6th March of the same year, they empowered the President 'to employ the militia, military and naval forces of the Confederate States to repel invasion, maintain the rightful possession of the Confederate States in every portion of the territory belonging to each State, and to secure the public tranquillity and independence against threatened invasion.' These acts of Congress do not exceed the competency of that body under the Constitution. They confer plenary powers upon the President to employ all the military power of the Confederate States to meet the extraordinary emergencies that might arise, and which were then foreshadowed. You do not deny the existence of the emergency anticipated and provided for by Congress. You simply contend that you should employ the militia instead of the President. That you should conduct *some* military operations, rather than the President, and that Congress judged unwisely in confiding power to him, rather than to yourself. In my judgment, these acts of Congress bind you, both as a citizen and an officer, and you owe prompt, cordial, and unhesitating obedience to them.

"In stating the parallel case of the conduct of the refractory Governors of Massachusetts and Connecticut in the war with Great Britain, during the administration of Mr. Madison, I was aware that the former had the support of the opinion of the judges of that State, as contained in a letter addressed to him, and as cited by you. They had also the support of their State Legislatures and of the resolves of the Hartford Convention, composed of delegates from those and other States. The authority of these different public officers and agencies support your Excellency; but the judicial opinions of the supreme court of New York, and of the supreme court of the United States, as rendered in the line of their duty in cases before them, and the general sentiment of the people and the uniform action of the authorities of loyal States, afford no such support.

"Maj. Gen. Cobb informs the Department that he has made a satisfactory adjustment of this difficulty, and I dismiss the subject without further remark.

"In the summer of 1863, it became apparent that unless the population of the different States who were not embraced in the acts of Congress of the 16th April and 27th September, 1862, providing for the public defence, usually termed Conscription Acts, were organized for service, that the country would be exposed to frequent and injurious incursions from the enemy, by which it would be devastated before the means of defence could be carried to the place of invasion. A proposal for the organization was prepared and communicated to the Governors of all the States. This plan was to organize all the non-conscript population in companies under the acts of Congress to provide for the local defence or special service. These acts provided only for voluntary enlistments, and an alternative, or rather an auxiliary proposition, was presented to facilitate the accomplishment of this leading and prominent object.

"I addressed you on the 6th of June, 1863, a letter on the subject, a telegram on the 12th, and a second letter on the 19th of the same month. The general orders of the department, embodying its views as to the nature of these volunteer organizations, and disclosing the details of the measure, were published by the Adjutant and Inspector-General, the 22d June, 1863. These orders required that those companies should be formed for service during the war; that they were not to be called into service except in cases of emergency; that they were not to be employed beyond the limits of the State; that when the emergency terminated they were to be dismissed to their homes; that service in those companies would excuse from service as militia; that those companies were preferred to militia organizations; that they were to be armed by the Confederate States as far as necessary, and were to be paid by them while in service. A copy of this order is enclosed.

"These views were disclosed in the letters I have before referred to. The extracts you have made from them to defend your conduct do not represent the views of the department fairly.

"In my letter of the 6th of June, I state the necessity for organization of the non-conscript population; the many and grave objections to the use of the militia; the superiority of the system of defence proposed by voluntary organizations for home defence, and the motives that might be addressed to the people to adopt that mode of defence. I state in that letter that: 'For this (the organization) the legislation of Congress has made a full provision by two laws, one entitled An Act to provide for Local Defence and Special Service, approved August 21, 1861; the other entitled An Act to authorize the formation of Volunteer Companies for Local Defence, approved October 18, 1862. to which your attention is invited, and of which, as they are brief, copies are appended. Under the former of these, if organizations could be effected with the limitations presented in the muster rolls of service

only at home, or at specified points of importance within the particular State, they would be admirably adapted to obtain the desired ends of calling out those best qualified for the service; of employing them only when and so long as they might be needed; of having them animated with *esprit du corps*, reliant on each other and their selected officers, and of thus securing the largest measure of activity and efficiency, perhaps, attainable from other than permanent soldiers. After the most active and least needed portion of the reserves were embodied under the former law, the latter would allow smaller organizations with more limited range of service for objects of police and the pressing contingencies of neighborhood defence. Could these laws be generally acted on, it is believed as full organization of the reserve population would be secured for casual needs as would be practicable.'

"I closed that letter by saying: 'I am instructed by the President in his name to make on you a requisition for five thousand men, to be furnished by your State for service therein, unless in the intermediate time a volunteer force, organized under the law for local defence and special service, of *at least an equal number* be mustered and reported as subject to his call for service *within your State*.'

"In my telegram of the 12th, I say: 'Your assurance of co-operation is gratifying. Organizations under the law of the Provisional Congress are preferred, because of their *longer terms of duration* and greater adaptation for ready call on temporary service and then for dismissal to their ordinary pursuits.'

"In my letter of the 19th of June, I repeated the arguments in favor of organizations for local defence in preference to 'militia organizations or organizations on a basis similar to the militia for a limited period of service.' I stated to you that 'I did not suppose there would be such difficulties, delays, or confusion as you anticipated; that the process of forming the organizations is very simple and familiar to your people as having been generally adopted in volunteering for the provisional army. There will be no occasion to send on to the department here anything but the muster rolls, which, *under the regulations to be issued*, may be verified by a judge, justice, or colonel of militia. I think, with deference to your opinion, the whole matter of prompt and easy accomplishment.'

"The regulations referred to were published on the 22d of June, 1863. They declare their object to be to afford 'instructions as to the method by which such organizations may be made, and the privileges they may claim;' and with these regulations the Act of Congress of August 21, 1861, was published, which authorized the President to accept the services of volunteers of such kind and in such proportion as he may deem expedient, to serve for such time as he may prescribe, for the defence of exposed places or localities, or such special service as he may deem expedient.

"The general features of these regulations I have already stated. They define with exactness the conditions as to time of enlistment, the place of

service, the duration of their special and particular service upon the Presidential call. These were the organizations that you were expected to form, and you seem to have entirely overlooked or forgotten the duty that you undertook to fulfill.

"It is not pretended by you that you carried into effect this plan for the organization of the State reserves, and that your promised co-operation was unproductive of the results anticipated from it. You followed the suggestions of your own mind, and did not act, and, so far as this department knows, did not attempt to act conformably to the views presented to you.

"I made no complaint of your failure to do this, nor was the failure made the subject of any observation until you assumed the ground of being the injured party, from which you railed at the President and the department, as wanting in faith to you; while the fact was, if there was any want of faith or breach of duty, you alone were the guilty party. I recur to the subject now simply to correct the misrepresentation of the conduct of the department by your garbled extracts from its correspondence—extracts which do not exhibit fairly the subject under consideration. I abstain now from imputing your conduct to bad faith to the department, in repelling the wanton and reckless assault upon the integrity of the administration of this department.

"Your remarks upon the patriotism and services of the people of Georgia will have no contradiction from me. I fully appreciate both. I have not believed that they could be seduced from their fidelity to the Confederate States or their duties under their Constitution. I have not supposed that they could be betrayed into any desertion of the common cause. The unanimous voice of the Legislature of the State was not required to assure me of their truth and loyalty. It has but confirmed the opinion that the seeds of baleful jealousies, suspicions, and irritation, that have so industriously been scattered among them, have been wholly unproductive of the fruit anticipated.

"It is to be hoped in the future that all the energy that has been thus employed will be diverted to the legitimate object of achieving the independence of the Confederate States, securing the peace and tranquillity of the Confederacy, and promoting thereby the true greatness of Georgia.

"Very respectfully, your obedient servant,

"JAMES A. SEDDON,

"Secretary of War."

"EXECUTIVE DEPARTMENT, }
MACON, GA., Jan. 6, 1865. }

"HON. JAMES A. SEDDON, SECRETARY OF WAR:

"Sir:—It becomes my duty to notice your communication of 18th December, which reached me a few days since.

"After citing the Acts of Congress of 28th February and the 6th March,

1861, conferring power upon the President to assume control of military operations in the States and to call forth the militia, etc., you declare that Congress in passing these Acts did not exceed its competency under the Constitution, and you then insist on a construction of these Acts which denies the right reserved by the States to keep troops in time of war, and which confers upon the President the power to call upon one State for a class of her population which are not subject under any law of Congress to do military duty, and for which he makes no similar requisition upon any other State.

"The Acts which you quote are not properly susceptible of any such construction as you are obliged to place upon them to make them serve your purpose. If they were, there could be no doubt upon the mind of any lawyer who understands the rudiments of constitutional law that Congress had no power or authority to pass them. No candid lawyer will insist for a moment that an Act of Congress can take from the States the right which they have plainly reserved in the Constitution to *keep troops* in time of war, or that the President has any power or control over any troops which a State may so *keep*, or that he can justly and legally make requisition for them, or that he has any legal or just grounds of complaint if a State refuses to turn them over to him if he should transcend his legal authority by making the requisition. Nor will any lawyer insist that the President has any power to make requisition for militia which Congress has not made provision for '*organizing*,' or for men or boys not subject to militia duty under the laws of Congress. As these Acts of Congress could confer upon the President no powers which are denied to him by the Constitution, and as his late requisition upon the Executive of this State was in clear violation of her reserved rights under the Constitution, I am surprised that you should attempt to justify this usurpation of undelegated powers by a resort to congressional action as directory to the President to violate the rights of the States.

"In your former letter you declared that my refusal to fill this requisition of the President was analogous in 'all particulars' to the conduct of the Governors of Massachusetts and Connecticut in the last war with Great Britain in refusing to fill the requisition made upon them by the President of the United States. In my answer, I showed too conclusively for reply, that the cases were not analogous in *any particular*. Without attempting to make good your assertion, or to controvert a single position in my argument, or to trace the *analogy* in a *single particular*, you again allude to the subject in your last letter by saying: 'In stating the *parallel* case of the conduct of the *refractory* Governors of Massachusetts and Connecticut,' etc. Now no one knew better than yourself that the cases were in no degree *parallel* and that you could neither trace the *parallel* lines nor point out the analogy.

"To avoid a misstatement contained in your former letter that 'the judicial tribunals determined adversely to the pretensions of these Governors,' you say you were aware that the former (the Governor of Massachusetts) had.

the support of the opinion of the judges of that State and of the Legislatures of those States, etc. ; and that the authority of these supports me in my position. Here again you are as incorrect as I have shown you to be in almost every important statement which has been made by you. There is nothing in the opinion of the judges of the supreme court of Massachusetts sustaining the Governor of that State which gives the slightest support to my position, or that has the least bearing upon the controversy between us. What were the points decided by that opinion of the court? They were substantially the following :

"1. That when the President made a requisition upon the Governor of a State for the militia to repel threatened invasion, it was the right of the Governor to judge whether the emergency existed. He decided that it did not.

"2. That when the militia were called out under a requisition from the President, no Federal officer but the President *in person* had the right to command them. These were the positions of the Governor of Massachusetts, and the opinion of the judges sustained him.

"Neither of these questions has arisen in this discussion. I have not denied the existence of the exigency, but foresaw it and had the reserve militia in the field in battle with the enemy months before the President seems to have seen it, at least months before he realized it to an extent to cause him to make the requisition.

"I have not raised the question as to the right of a Confederate officer other than the President *in person*, to command this militia so called out by me while in service. On the contrary, I had placed them under the command of a Confederate general long before the requisition was made. With these facts before you, a little reflection cannot fail to show you how much mistaken you are when you make the assertion that the decision of the judges of the supreme court of Massachusetts, or of the Legislatures of those two States, sustains my course or any position I have taken. As there is neither *analogy* nor *parallel* between the cases cited by you and my own case, no decision sustaining the Governors in those cases can either sustain or condemn my course upon an entirely different state of facts and circumstances.

"But you say the judicial opinions of the supreme court of New York, and of the supreme court of the United States as rendered in the line of their duty, afford no such support. As you have not shown how the action of the Governors of Massachusetts and Connecticut, or the correctness of their position could have come judicially before the supreme court of New York, or the supreme court of the United States; and as you have not been able to cite any case in which the question of the conduct of those Governors was ever before either of said courts, I am left to suppose that you are, as I have shown you to be in so many instances, again unfortunate in your statement of facts, and that in attempting to sustain an erroneous statement in your other letter, you have added another to former mistakes.

"As an excuse for dismissing the subject without further attempt to sustain your position, you remark that Major-General Cobb informs the department that he has made a satisfactory adjustment of this difficulty. While there has been perfect harmony between General Cobb and myself in military matters from the commencement of Sherman's advance upon Atlanta to the present time, as there has been between Generals Johnston, Hood, Beauregard and myself; there has been no adjustment whatever between me and General Cobb of what you are pleased to term 'this difficulty.' I have neither by word nor act done anything to recognize the right of the President to make this requisition, or to admit the obligation of the Governor to fill it. I have stood in reference to General Cobb, as I have towards you and the President, upon the reserved rights of the State, and have refused to relinquish the control of the State over her reserved militia while she determines to keep them, or to fill a requisition which the President had no right to make. I am happy to find that upon reflection you seem to see your error, and are prepared to accept this as a *satisfactory adjustment* of a controversy which you have unjustly provoked, and in which you cannot sustain yourself upon any known principle of reason or law.

"You devote a greater part of your letter to another attempt to justify your bad faith to the Georgia troops called out under the President's requisition of 6th June, 1863, and to prove, contrary to the plain language of the requisition, that they were called for *during the war*. You complain of what you call my 'garbled extracts,' and you quote extensively from the requisition, but you are particularly careful to so 'garble' your own extracts as not to quote that essential part of it twice stated in the letter, as I have already shown, that they were required only for *six months*. It was upon this requisition, with the two Acts of Congress, which you sent with it as the guide for my conduct, that I promised co-operation with you in the organization. The promise was redeemed both in letter and spirit, and your call for *eight thousand men* (not *five thousand* as you now erroneously state in your last letter) was met with more than double the number required, organized in strict accordance with the plain language of the requisition and the Acts of Congress on that subject.

"As candor and truth at least are expected of one occupying your position, it is painful to witness the shifts to which you resort to do injustice to my State, and to misrepresent the conduct of her Executive in a matter where he more than doubly filled your requisition.

"I am now favored by you with a copy of a general order issued by Adjutant-General Cooper weeks after the requisition was made, which I do not recollect that I ever saw till I received your letter, and you complain that I did not carry out your views as expressed in that order. I obey no *orders* from your department; nor was this order furnished to me when you made the requisition, or during the organization of the troops, with even a request that I conform to it. I was asked by you to organize the troops in accord-

ance with your letter containing the requisition and the two Acts of Congress, of which you enclosed copies for *six months'* service, with the pledges contained in your letter to which I referred in my last letter, that they should only be called out for sudden emergencies, etc. This I did on my part, and you refused to redeem the pledges made on your part. This is the whole case, and I here dismiss this part of the subject with my regrets that justice to myself and the large number of citizens of my State who suffered unnecessarily by your action, has made it a duty for me to expose your bad faith and the misstatements to which you have resorted to sustain an interpretation of your requisition which its plain language unquestionably precludes.

"By the expression in your letter that: 'It (the unanimous voice of the Legislature of this State) has but confirmed the opinion that the seeds of baleful jealousies, suspicions and irritation that have so industriously been scattered among them (the people) have been wholly unproductive of the fruits anticipated,' I am left to conclude that in your disingenuous effort by insinuation to call in question my motives in *protesting* against the President's usurpations and abuses of power, you, as is your habit, base your assertion upon an assumption of facts which does not exist. The Legislature of this State at the late session passed no resolutions, and expressed no unanimous voice upon any question connected with the conduct of the Administration of which you are a member, nor did they utter in its behalf any voice of approbation.

"While the people of this State are true and loyal to our cause, they are not unmindful of the great principles of Constitutional Liberty and State Sovereignty upon which we entered into this struggle, and they will not hold guiltless those in power who, while charged with the guardianship of the liberties of the people, have subverted and trampled personal liberty under foot, and disregarded the rights of private property, and the judicial sanctions, by which, in all free governments, they are protected.

"The course pursued by the administration towards Georgia, in her late hour of extreme peril, has shown so conclusively as to require no further argument or illustration, the wisdom of the reservation made by the States, in the Constitution, of the right to keep troops in time of war. Georgia has furnished over one hundred thousand of her gallant sons to the armies of the Confederacy. The great body of these men was organized into regiments and battalions of infantry and artillery, which have been sustained by recruits from home, from month to month, to the extent of our ability. Those who survive of these regiments and battalions have become veterans in the service, who, if permitted, would have returned to their State, and rendered Sherman's march across her territory and the escape of his army alike impossible. I asked that this be allowed, if assistance could not be otherwise afforded. It was denied us, and the State has been passed over by a large army of the enemy. Hundreds of miles of her railroads have been for the present rendered useless. A broad belt of her territory nearly four

hundred miles in length, has been devastated. Within this belt most of the public property, including several court houses with the public records, and a vast amount of private property, including many dwellings, gin houses, much cotton, etc., have been destroyed. The city of Atlanta, with several of the villages of the State, has been burnt; the capital has been occupied and desecrated by the enemy, and Savannah, the seaport city of the State, is now in his possession. During the period of Sherman's march from Atlanta to Milledgeville, there was not one thousand men of all the veteran infantry regiments and battalions of Georgians, now in Confederate service, upon the soil of this State. Nor did troops from other States fill their places.

"Thus 'abandoned to her fate' by the President, Georgia's best reliance was her reserve militia and State line, whom she had organized and still *keeps*, as by the Constitution she has a right to do. Without them, much more property must have been destroyed, and the city of Macon, so important to the State and Confederacy, must have shared the fate of Atlanta and Savannah, while Augusta, with the small Confederate force by which she was saved, divided with Macon, must also have fallen.

"These troops whom Georgia *keeps* have not only acted with distinguished gallantry upon many bloody battle-fields upon the soil of their own State, but they have, when an important service could be rendered by them, marched into the interior of other States. The noble conduct of the Troup County militia in their march to Pollard, Alabama, to aid in the protection of the people and property of that State against the devastations of the enemy, and the heroic valor displayed by Maj.-Gen. G. W. Smith and part of his command then with him at Honey Hill, in South Carolina, where he won—with the Georgia militia, her State line and a small number of gallant Confederate troops, most of whom were Georgians—one of the most signal victories of the war in proportion to the number engaged, fully attest the correctness of my assertion in their behalf.

"In view of these facts, with the late bitter experience of the people of this State fresh in his recollection, the Georgia statesman must indeed be a blind worshipper of the President who would advocate the policy of turning over to his control, to be carried out of the State at his bidding, old men and boys not subject under the laws of Congress to military service, and of a class not required by him of any other State.

"I cannot close this communication without noticing certain expressions in your letter which are not unfrequently used by persons in authority at Richmond, such as 'refractory Governors,' 'loyal States,' etc. Our people have become accustomed to these imperial utterances from those who wield the central despotism at Washington, but such expressions are so utterly at variance with the principles upon which we entered into this contest in 1861 that it sounds harshly to our ears to have the officers of a government, which is the agent or creature of the States, discussing the *loyalty* and *disloyalty*

of the sovereign States to their central agent—the loyalty of the creator to the creature—which lives and moves and has its being only at the will of the States; and to hear their praise of the Governors of sovereign States for their subserviency, or their denunciation of those not subservient as ‘refractory.’ If our liberties are lost the fatal result will not be properly chargeable to *disloyal States* or ‘refractory Governors;’ but it will grow out of the betrayal by those high in Confederate authority of the sacred principles of the Constitution which they have sworn to defend.

“Had some officials labored as successfully for the public good as they have assiduously to concentrate all power in the Confederate Government and to place the liberty and property of every citizen of the Confederacy subject to the caprice and control of the President, the country would not have been doomed to witness so many sad reverses. Nor would we now be burdened to support the vast hoard of supernumerary officers and political favorites, who are quartered upon us to eat out our substance while they avoid duty and danger in the field, having little other duty to perform but to endorse, indiscriminately and publicly, by newspaper communications and otherwise, every act of the President whether right or wrong; and to reconcile the people by every means in their power to the constant encroachments which are made upon their ancient usages, customs, and liberties.

“If all these favorites of power who are able for active duty and whose support in the style in which they live, while all around them is misery and want, costs the people millions of dollars, were sent to the field and compelled to do their part in battle, the President would have no reason to make illegal requisitions upon this State for her old men and boys, who are not subject to his control under any law, State or Confederate; but he would soon be able by heavy reinforcements to fill the depleted ranks of the armies of the Confederacy. As the President is clothed with all the power necessary to compel these political favorites to shoulder arms and aid in driving back the invader, the subject is respectfully commended to your consideration as well worthy of energetic action.

“I am, very respectfully,

“Your obedient servant,

“JOSEPH E. BROWN.”

CHAPTER XI.

CORRESPONDENCE OF PRESIDENT DAVIS AND GOVERNOR BROWN UPON CONSCRIPTION.

In the spring of 1862, upon the subject of raising troops, there sprung up a fundamental difference of opinion between President Davis and Governor Brown. So long as volunteer forces were raised in the States by the authority of the President, or he made requisition on the Governor for them, there was no serious or exciting issue between them. But when, as will appear, in order to force the citizen soldiers of other States, which, unlike Georgia, appeared to be tardy in responding to his calls, the Congress, at the request of the President, attempted to place all within given ages subject to summary conscription, the execution of the law within this State gave rise to a severely critical correspondence. It relates to and contains the matters that tended in no small part, in the sequel, to the failure of the Confederacy. It was a difference in opinion between men who were each intent on independence for the South, which will appear in the letters of each. To avoid all appearance of unfairness, we dispense with abbreviations, and set forth their entire letters.

"EXECUTIVE DEPARTMENT, }
MILLEDGEVILLE, GA., April 22, 1862. }

"HIS EXCELLENCY JEFFERSON DAVIS,
Richmond, Virginia:

"*Dear Sir* :—So soon as I received from the Secretary of War official notice of the passage by Congress of the Conscription Act, placing in the military service of the Confederate States all white men between the ages of 18 and

35 years, I saw that it was impossible for me longer to retain in the field the Georgia State troops, without probable collision and conflict with the Confederate authorities, in the face of the enemy. I, therefore, acquiesced in the necessity which compelled me to transfer the State forces to the command of the Confederate general at Savannah, and tendered to General Lawton, who commands the Military District of Georgia, not only the conscripts in the State army, but also those not conscripts, for the unexpired term of their enlistment. General Lawton accepted the command with the assurance that he would interfere as little as possible with the company and regimental organizations of the troops. This assurance, I trust, the Government will permit him to carry out in the same spirit of liberality in which it was given. If the State regiments are broken up and the conscripts belonging to them forced into other organizations against their consent it will have a very discouraging effect. If the regiments and companies were preserved, and permission given to the officers to fill up their ranks by recruits, there would be no doubt of their ability to do so; and I think they have a just right to expect this privilege.

"Georgia has promptly responded to every call made upon her by you for troops, and has always given more than you asked; she now has about 60,000 in the field. Had you called upon her Executive for 20,000 more, (if her just quota.) they would have been furnished without delay. The plea of necessity, so far, at least, as this State is concerned, cannot be set up in defence of the Conscription Act.

"When the Government of the United States disregarded and attempted to trample upon the rights of the States, Georgia set its power at defiance and seceded from the Union, rather than submit to the consolidation of all power in the hands of the central or Federal government.

"The Conscription Act not only puts it in the power of the Executive of the Confederacy to disorganize her troops, which she was compelled to call into the field, for her own defence, in addition to her just quota, because of the neglect of the Confederacy to place sufficient troops upon her coast for her defence—which would have required less than half the number she has sent to the field—but also places it in his power to destroy her State government by disbanding her law-making power.

"The Constitution of this State makes every male citizen who has attained the age of 21 years eligible to a seat in the House of Representatives of the General Assembly, and every one who has attained the age of 25 eligible to a seat in the Senate. There are a large number of the members of the General Assembly between the ages of 18 and 35. They are white citizens of the Confederate States, and there is no statute in the State, and I am aware of none in the Confederate States code, which exempts them from military duty. They, therefore, fall within the provisions of the Conscription Act. It may become necessary for me to convene the General Assembly in extra session; or, if not, the regular session will commence the first Wednes-

day in November. When the members meet at the Capitol, if not sooner, they might be claimed as conscripts by a Confederate officer, and arrested with a view to carry them to some remote part of the Confederacy, as recruits, to fill up some company now in service. They have no military power, and could only look to the Executive of the State for military protection; and I cannot hesitate to say that, in such case, I should use all the remaining military force of the State in defence of a co-ordinate constitutional branch of the government. I can, therefore, permit no enrolment of the members of the General Assembly under the Conscription Act. The same is true of the judges of the supreme and superior courts, should any of them fall within the ages above mentioned; and of the secretaries of the Executive departments; the heads and necessary clerks of the other departments of the State government; and the tax collectors and receivers of the different counties, who are now in the midst of their duties, and are not permitted by law to supply substitutes, and whose duties must be performed, or the revenues of the State cannot be collected. The same remark applies to the staff of the Commander-in-Chief. There is no statute exempting them from military duty, for the reason that they are at all times subject to the command of the Governor, and are not expected to go into the ranks.

"The State's quartermaster, commissary, ordnance and engineers' departments fall within the same rule. The major-generals, brigadier-generals, and other officers of the militia, would seem to be entitled to like consideration.

"Again, the Western & Atlantic Railroad is the property of the State, and is under the control and management of the Governor. It is a source of revenue to the State and its successful management is a matter of great military importance, both to the State and the Confederacy. I now have an efficient force of officers and workmen upon the road, and must suspend operations if all between 18 and 35 are taken away from the road.

"I would also invite your attention to the further fact that the State owns and controls the Georgia Military Institute at Marietta, and now has in the Institute over 125 cadets, a large proportion of whom are within the age of conscripts. If they are not exempted, this most important institution is broken up. I must not omit, in this connection, the students of the State University, and of the other colleges of the State. These valuable institutions of learning must also be suspended if the law is enforced against the students.

"I would, also, respectfully call your attention to the further fact that in portions of our State where the slave population is heavy, almost the entire white male population capable of bearing arms except the overseers on the plantations are now in the military service of the Confederacy. Most of these overseers are over 18 and under 35. If they are carried to the field thousands of slaves must be left without overseers, and their labor not only

lost at a time when there is great need of it in the production of provisions and supplies for our armies, but the peace and safety of helpless women and children must be imperilled for want of protection against bands of idle slaves, who must be left to roam over the country without restraint.

"It is also worthy of remark, that a large proportion of our best mechanics, and of the persons engaged in the various branches of manufacturing now of vital importance to the success of our cause, are within the ages which subject them to the provisions of the Conscription Act.

"My remark that I cannot permit the enrolment of such State officers as are necessary to the existence of the State government, and the working of the State road, does not, of course, apply to persons engaged in the other useful branches of industry considered of paramount importance, but I must ask, in justice to the people of this State, that such exemptions among these classes be made as the public necessities may require.

"As you are well aware, the military operations of the Government cannot be carried on without the use of all our railroads, and the same necessity exists for the exemption of all other railroad officers and workmen which exists in the case of the State road.

"There are doubtless other important interests not herein enumerated which will readily occur to you, which must be kept alive or the most serious consequences must ensue.

"The Constitution gives to Congress the power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the Confederate States, *reserving to the States, respectively, the appointment of the officers*, and the authority of training the militia according to the discipline prescribed by Congress. The Conscription Act gives the President the power to enroll the entire militia of the States between 18 and 35, and takes from the States their constitutional right to *appoint the officers* and to *train* the militia.

"While this Act does not leave to the States the appointment of a single officer to command the militia employed in service of the Confederate States under its provisions, it places it in the power of the President to take a major-general of the militia of a State, if he is not 35 years of age, and place him in the ranks of the Confederate States army, under the command of a 3d lieutenant appointed by the President, and to treat him as a deserter if he refuses to obey the call and submit to the command of the subaltern placed over him.

"I do not wish to be understood, in any portion of this letter, to refer to the intentions of the President, but only to the extraordinary powers given him by the Act.

"This Act not only disorganizes the military system of all the States, but consolidates almost the entire military power of the States in the Confederate Executive with the appointment of the officers of the militia, and enables him at his pleasure to cripple or destroy the civil government of each State, by

arresting and carrying into the Confederate service the officers charged by the State Constitution with the administration of the State government.

"I notice by a perusal of the Conscription Act that the President may, with the consent of the Governors of the respective States, employ State officers in the enrolment of the conscripts. While I shall throw no obstacle in the way of the general enrolment of persons embraced within the Act, except as above stated, I do not feel that it is the duty of the Executive of a State to employ actively the officers of the State in the execution of a law which virtually strips the State of her constitutional military powers, and, if fully executed, destroys the legislative department of her government, making even the sessions of her General Assembly dependent upon the will of the Confederate Executive. I therefore respectfully decline all connection with the proposed enrolment, and propose to reserve the question of the constitutionality of the Act, and its binding force upon the people of this State, for their consideration at a time when it may less seriously embarrass the Confederacy in the prosecution of the war.

"You will much oblige by informing me of the extent to which you propose making exemptions, if any, in favor of the interests above mentioned, and such others as you may consider of vital importance. The question is one of great interest to our people, and they are anxious to know your pleasure in the premises.

"Very respectfully, your obedient servant,

"JOSEPH E. BROWN."

"RICHMOND, April 28, 1862.

"TO HIS EXCELLENCY JOSEPH E. BROWN,

"GOVERNOR OF THE STATE OF GEORGIA :

"*Dear Sir:*—I have received your letter of the 22d inst., informing me of your transfer of the Georgia State troops to General Lawton, commanding Confederate forces at Savannah—suggesting that there be as little interference as possible on the part of the Confederate authorities with the present organization of those troops—and mentioning various persons and classes as proper subjects for exemption from military service under the provisions of an 'Act to further provide for the public defence,' approved on the 16th inst.

"I enclose copies of the Act for receiving State troops tendered, as organized, and of the Exemption Act. By the first, interference with the present organization of companies, squadrons, battalions, or regiments, tendered by Governors of States, is specially disclaimed. By the other, exemptions are made which explain (satisfactorily, I trust,) the policy of Congress with regard to the persons and interests you specify.

"The constitutionality of the Act you refer to as the 'Conscription Bill' is clearly not derivable from the power to call out the militia, but from that

360 CORRESPONDENCE OF PRESIDENT DAVIS

to raise armies. With regard to the mode of officering the troops now called into the service of the Confederacy, the intention of Congress is to me, as to you, to be learned from its Acts; and from the terms employed, it would seem that the policy of election by the troops themselves is adopted by Congress.

“ With great regard, very respectfully,

“ Your obedient servant,

“JEFFERSON DAVIS.”

“EXECUTIVE DEPARTMENT, }
MILLEDGEVILLE, GA., May 9, 1862. }

“HIS EXCELLENCY JEFFERSON DAVIS:

“ *Dear Sir:*—I have the honor to acknowledge the receipt of your favor of the 28th ult., in reply to my letter to you upon the subject of the Conscription Act. I should not trouble you with a reply were it not that principles are involved of the most vital character, upon the maintenance of which, in my opinion, depend not only the rights and the sovereignty of the States, but the very existence of State government.

“ While I am always happy as an individual to render you any assistance in my power in the discharge of the laborious and responsible duties assigned you, and while I am satisfied you will bear testimony that I have never, as the Executive of this State, failed in a single instance to furnish all the men and more than you have called for and to assist you with all the other means at my command, I cannot consent to commit the State to a policy which is in my judgment subversive of her sovereignty and at war with all the principles for the support of which Georgia entered into this revolution.

“ It may be said that it is no time to discuss constitutional questions in the midst of revolution, and that State rights and State sovereignty must yield for a time to the higher law of necessity. If this be a safe principle of action it cannot certainly apply till the necessity is shown to exist; and I apprehend it would be a dangerous policy to adopt were we to admit that those who are to exercise the power of setting aside the Constitution are to be the judges of the necessity for so doing. But did the necessity exist in this case? The Conscription Act cannot aid the Government in increasing its supply of *arms* or *provisions*, but can only enable it to call a larger number of *men* into the field. The difficulty has never been to get *men*. The States have already furnished the Government more than it can arm, and have from their own means armed and equipped very large numbers for it. Georgia has not only furnished more than you have asked, and armed and equipped from her own treasury a large proportion of those she has sent to the field, but she stood ready to furnish promptly her quota (organized as the Constitution provides) of any additional number called for by the President.

“ I beg leave again to invite your attention to the constitutional question involved. You say in your letter that the constitutionality of the Act is

clearly not derivable from the power to call out the militia but from that to raise armies. Let us examine this for a moment. The 8th section of the 1st Article of the Constitution defines the powers of Congress. The 12th paragraph of that section declares that Congress 'shall have power to raise and support armies.' Paragraph fifteen gives Congress power to provide for calling forth the militia to execute the laws of the Confederate States, suppress insurrections, and *repel invasions*. Paragraph sixteen gives Congress power to provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the Confederate States, *reserving to the States respectively the appointment of the officers*, and the authority of *training* the militia according to the discipline prescribed by Congress.

"These grants of power all relate to the same subject matter and are all contained in the same section of the Constitution, and, by a well known rule of construction, must be taken as a whole and construed together.

"It would seem quite clear that by the grant of power to Congress to raise and support armies, without qualification, the framers of the Constitution intended the regular armies of the Confederacy and not armies composed of the whole militia of all the States. If all the power given in the three paragraphs above quoted is in fact embraced in the first in the general words *to raise armies*, then the other two paragraphs are mere surplusage and the framers of the Constitution were guilty of the folly of incorporating into the instrument unmeaning phrases. When the States, by the 16th paragraph, expressly and carefully reserved to themselves the right to appoint the officers of the militia when employed in the service of the Confederate States, it was certainly never contemplated that Congress had power, should it become necessary, to call the whole militia of the State into the service of the Confederacy, to direct that the President should appoint (commission) all the officers of the militia thus called into service, under the general language contained in the previous grant of power *to raise armies*. If this can be done, the very object of the State in reserving the power of appointing the officers is defeated, and that portion of the Constitution is not only a nullity, but the whole military power of the States, and the entire control of the militia, with the appointment of the officers, is vested in the Confederate Government, whenever it chooses to call its own action 'raising an army,' and not 'calling forth the militia.' Is it fair to conclude that the States intended that their reserved powers should be defeated in a matter so vital to constitutional liberty, by a mere change in the use of terms to designate the act? Congress shall have power *to raise armies*. How shall it be done? The answer is clear. In conformity to the provisions of the Constitution which expressly provides that, when the militia of the States are called forth *to repel invasions*, and employed in the service of the Confederate States, (which is now the case,) the States shall appoint the officers. If this is done, the army is raised as directed by the Constitution, and the reserved

rights of the States are respected; but if the officers of the militia, when called forth, are appointed by the President, the army composed of the militia is not raised as directed by the Constitution, and the reserved rights of the States are disregarded. The fathers of the Republic, in 1787, showed the utmost solicitude on this very point. In the discussions in the convention upon the adoption of this paragraph in the Constitution of the United States, which we have copied and adopted without alteration, Mr. Ellsworth said: 'The whole authority over the militia ought by no means to be taken away from the States, whose consequence would pine away to nothing after such a sacrifice of power.' In explanation of the power which the committee, who reported this paragraph to the convention, intended by it to delegate to the general government, when the militia should be employed in the service of that government, Mr. King, a member of the committee, said: 'By *organizing*, the committee meant proportioning the officers and men; by *arming*, specifying the kind, size and calibre of arms; by *disciplining*, prescribing the manual exercise, evolutions, etc.

"Mr. Gerry objected to the delegation of the power, even with this explanation, and said: 'This power in the United States, as explained, is making the States drill sergeants.' He had as lief let the citizens of Massachusetts be disarmed, as to take the command from the States and subject them to the General Legislature.

"Mr. Madison observed that '*arming*, as explained, did not extend to furnishing arms, nor the term *disciplining*, to penalties and courts-martial for enforcing them.

"After the adoption by the convention of the first part of the clause, Mr. Madison moved to amend the next part of it, so as to read 'reserving to the States respectively the appointment of the officers *under the rank of general officers*.'

"Mr. Sherman considered this as absolutely inadmissible. He said that 'if the people should be so far asleep as to allow the most influential officers of the militia to be appointed by the general government, every man of discernment would rouse them by sounding the alarm to them.'

"Upon Mr. Madison's proposition, Mr. Gerry said: 'Let us at once destroy the State governments, have an Executive for life, or hereditary, and a proper Senate, and then there would be some consistency in giving full powers to the general government; but as the States are not to be abolished, he wondered at the attempts that were made to give powers inconsistent with their existence. He warned the convention against pushing the experiment too far.'

"Mr. Madison's amendment to add to the clause the words '*under the rank of general officers*,' was voted down by a majority of eight States against three, according to the 'Madison Papers,' from which the above extracts are taken, and by nine States against two, according to the printed journals of the convention. The reservation in the form in which it now stands in the

Constitution, 'reserving to the States the appointment of the officers' when the militia are employed in the service of the Confederacy, as well the general officers as those under that grade, was then adopted unanimously by the convention.

"At the expense of wearying your patience, I have been thus careful in tracing the history of this clause of the Constitution, to show that it was the clear understanding of those who originated this part of the fundamental law, that the States should retain their power over their militia, even while in the service of the Confederacy, by retaining the appointment of *all the officers*.

"In practice, the government of the United States, among other numerous encroachments of power, had usurped to itself the power which the convention, after mature deliberation, had expressly denied to it, to wit, the power of appointing the *general officers* of the militia when employed in the service of the general government.

"But even that government had never attempted to go to the extent of usurping the power to appoint the field and company officers. If the framers of the Constitution were startled at the idea of giving the appointment of the general officers to the general government, and promptly rejected it, how would they have met a proposition to give the appointment of **ALL THE OFFICERS**, down to the lowest lieutenant, to it?

"But you say, 'with regard to the mode of officering the troops now called into the service of the Confederacy, the intention of Congress is to be learned from its acts, and from the terms employed it would seem that the policy of election by the troops themselves is adopted by Congress.'

"I confess I had not so understood it, without very essential qualification. It is true, the twelve-months men who re-enlist have a right, within forty days, to re-organize and elect their officers.

"But if I understood the act, judging from the terms used, all vacancies which occur in the old regiments are to be filled, not by election, but by the President, by promotion, down to the lowest commissioned officer, whose vacancy alone is filled by election, and even this rule of promotion may be set aside by the President at any time, under circumstances mentioned in the act, and he may appoint any one he pleases to fill the vacancy, if, in his opinion, the person selected is distinguished for skill or valor; and the commission in either and all the cases mentioned must be issued by the President.

"Quite a number of Georgia regiments are in for the war whose officers hold commissions from the Executive of the State; but even in these regiments, under the act, every person appointed to fill any vacancy which may hereafter occur, must, it would seem, hold his commission, not from the State, but from the President.

"But admit that Congress, by its acts, intended to give the troops in every case the right to elect their officers (which has not been the established practice, as you have commissioned many persons to command as field of-

ficers without election,) this does not relieve the acts of Congress from the charge of violation of the Constitution. The question is not as to the mode of selecting the person who is to have the commission, but as to the government which has, under the Constitution, the right to issue the commission. The States, in the exercise of their reserved power to appoint the officers, may select them by election, or may permit the Executive to select them; but the appointment rests upon the commission, as there is no complete appointment till the commission is issued, and, therefore, the government that issues the commission exercises the appointing power and controls the appointment.

"I am not, however, discussing the intention of Congress in the assumption of this power, but only the question of its *powers*; and whatever may have been its intention, I maintain that it has transcended its constitutional powers, and has placed in the hands of the Executive of the Confederacy that which the States have expressly and carefully denied to Congress and reserved to themselves.

"But you may ask, why hold the Executive responsible for the unconstitutional action of Congress? I would not, of course, insist on this any further than the action of Congress has been *sanctioned* by the Executive, and acted upon by him.

"Feeling satisfied that the Conscription Act, and such other acts of Congress as authorize the President to appoint or commission the officers of the militia of the State, when employed in the service of the Confederate States to 'repel invasion,' are in palpable violation of the Constitution, I can consent to do no act which commits Georgia to willing acquiescence in their binding force upon her people. I cannot, therefore, consent to have anything to do with the enrolment of the conscripts in this State, nor can I permit any commissioned officer of the militia to be enrolled who is necessary to enable the State to exercise her reserved right of *training* her militia, according to the discipline prescribed by Congress, at a time when to prevent troubles with her slaves, a strict military police is absolutely necessary to the safety of her people. Nor can I permit any other officer, civil or military, who is necessary to the maintenance of the State government, to be carried out of the State as a conscript.

"Should you at any time need additional troops from Georgia to fill up her just quota, in proportion to the number furnished by the other States, you have only to call on the Executive for the number required, to be organized and officered as the Constitution directs, and your call will, as it ever has done, meet a prompt response from her noble and patriotic people, who, while they will watch with a jealous eye, even in the midst of revolution, every attempt to undermine their constitutional rights, will never be content to be behind the foremost in the discharge of their whole duty.

"I am, with great respect, your obedient servant,

"JOSEPH E. BROWN."

"EXECUTIVE DEPARTMENT, }
RICHMOND, May 29, 1862. }

"*Dear Sir* :—I received your letter of the 8th inst. in due course, but the importance of the subject embraced in it required careful consideration; and this, together with other pressing duties, has caused delay in my reply.

"The constitutional question discussed by you in relation to the Conscription Law had been duly weighed before I recommended to Congress the passage of such a law; it was fully debated in both houses; and your letter has not only been submitted to my Cabinet, but a written opinion has been required from the Attorney-General. The constitutionality of the law was sustained by very large majorities in both houses. This decision of the Congress meets the concurrence, not only of my own judgment, but of every member of the Cabinet; and a copy of the opinion of the Attorney-General, herewith enclosed, develops the reasons on which his conclusions are based.

"I propose, however, from my high respect for yourself, and for other eminent citizens who entertain opinions similar to yours, to set forth, somewhat at length, my own views on the power of the Confederate Government over its own armies and the militia, and will endeavor not to leave without answer any of the positions maintained in your letter.

"The main if not the only purpose for which independent States form unions or confederations is to combine the power of the several members in such manner as to form one united force in all relations with foreign powers, whether in peace or in war. Each State, amply competent to administer and control its own domestic government, yet too feeble successfully to resist powerful nations, seeks safety by uniting with other States in like condition, and by delegating to some common agent the combined strength of all, in order to secure advantageous commercial relations in peace, and to carry on hostilities with effect in war.

"Now, the powers delegated by the several States to the Confederate Government, which is their common agent, are enumerated in the 8th section of the Constitution, each power being distinct, specific, and enumerated in paragraphs separately numbered. The only exception is the 18th paragraph, which, by its own terms, is made dependent on those previously enumerated, as follows:

"'18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers,' etc.

"Now the *war powers* granted to the Congress are conferred in the following paragraphs:

"No. 1 gives authority to raise 'revenue necessary to pay the debts, *provide for the common defence*, and carry on the government,' &c.

"No. 11, '*to declare war*, grant letters of marque and reprisal, and make rules concerning captures on land and water;'

"No. 12, '*to raise and support armies*; but no appropriation of money to that use shall be for a longer term than two years.'

"No. 13, '*to provide and maintain a navy* ;'

"No. 14, '*to make rules for the government and regulation of the land and naval forces*.'

"It is impossible to imagine a more broad, ample, and unqualified delegation of the whole war power of each State than is here contained, with the solitary limitation of the appropriations to two years. The States not only gave power to raise money for the common defence; to declare war; to raise and support armies (in the plural); to provide and maintain a navy; to govern and regulate both land and naval forces; but they went further, and covenanted, by the 3d paragraph of the 10th section, not '*to engage in war, unless actually invaded, or in such imminent danger as will not admit of delay*.'

"I know of but two modes of raising armies within the Confederate States, viz.: voluntary enlistment, and draft or conscription. I perceive, in the delegation of power to raise armies, no restriction as to the mode of procuring troops. I see nothing which confines Congress to one class of men, nor any greater power to receive volunteers than conscripts into its service. I see no limitation by which enlistments are to be received of individuals only, but not of companies, or battalions, or squadrons, or regiments. I find no limitation of time of service but only of duration of appropriation. I discover nothing to confine Congress to waging war within the limits of the Confederacy, nor to prohibit offensive war. In a word, when Congress desires to raise an army, and passes a law for that purpose, the solitary question is under the 18th paragraph, viz.: '*Is the law one that is necessary and proper to execute the power to raise armies*,' etc.?

"On this point you say: '*But did the necessity exist in this case?*' The Conscription Act cannot aid the Government in increasing the supply of *arms* or *provisions*, but can only enable it to call a larger number of *men* into the field. The difficulty has never been to get *men*. The States have already furnished the Government more than it can arm,' etc.

"I would have very little difficulty in establishing to your entire satisfaction that the passage of the law was not only necessary, but that it was absolutely indispensable; that numerous regiments of twelve-months men were on the eve of being disbanded, whose places could not be supplied by new levies in the face of superior numbers of the foe, without entailing the most disastrous results; that the position of our armies was so critical as to fill the bosom of every patriot with the liveliest apprehension; and that the provisions of this law were effective in warding off a pressing danger. But I prefer to answer your objection on other and broader grounds.

"I hold, that when a specific power is granted by the Constitution like that now in question, '*to raise armies*,' Congress is the judge whether the law passed for the purpose of executing that power is '*necessary and proper*.' It is not enough to say that armies might be raised in other ways, and that, therefore, this particular way is not '*necessary*.' The same argu-

ment might be used against *every* mode of raising armies. To each successive mode suggested, the objection would be that other modes were practicable, and that, therefore, the particular mode used was not 'necessary.' The true and only test is to enquire whether the law is intended and calculated to carry out the object; whether it devises and creates an instrumentality for executing the specific power granted; and if the answer be in the affirmative, the law is constitutional. None can doubt that the Conscription Law is calculated and intended to 'raise armies.' It is, therefore, 'necessary and proper' for the execution of that power, and is constitutional, unless it comes into conflict with some other provision of our Confederate compact.

"You express the opinion that this conflict exists, and support your argument by the citation of those clauses which refer to the militia. There are certain provisions not cited by you, which are not without influence on my judgment, and to which I call your attention. They will aid in defining what is meant by 'militia,' and in determining the respective powers of the States and the Confederacy over them.

"The several States agree 'not to keep *troops* or ships of war in time of peace.' Art. 1, sec. 10, par. 3.

"They further stipulate, that 'a well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.' Sec. 9, par. 13.

"That 'no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia when in actual service in time of war or public danger,' etc. Sec. 9, par. 16.

"What then are militia? They can only be created by law.—The arms-bearing inhabitants of a State are liable to become its militia, if the law so order; but in the absence of a law to that effect, the men of a State capable of bearing arms are no more militia than they are seamen.

"The Constitution also tells us that militia are not *troops* nor are they any part of the *land or naval forces*; for militia exist in time of peace, and the Constitution forbids the States to keep troops in time of peace, and they are expressly distinguished and placed in a separate category from *land or naval forces*, in the 16th paragraph, above quoted; and the words *land or naval forces* are shown, by paragraphs 12, 13 and 14, to mean the army and navy of the Confederate States.

"Now, if militia are not the citizens taken singly, but a body created by law, if they are not troops, if they are no part of the army and navy of the Confederacy—we are led directly to the definition quoted by the Attorney-General, that militia are a '*body* of soldiers in a State enrolled for discipline.' In other words, the term 'militia' is a collective term, meaning a *body* of men organized, and cannot be applied to the separate individuals who compose the organization.

"The Constitution divides the whole military strength of the States into

only two classes of organized bodies—one, the armies of the Confederacy; the other, the militia of the States.

"In the delegation of power to the Confederacy, after exhausting the subject of declaring war, raising and supporting armies, and providing a navy, in relation to all which the grant of authority to Congress is *exclusive*, the Constitution proceeds to deal with the other organized body, the militia, and, instead of delegating power to Congress alone, or reserving it to the States alone, the power is divided as follows, viz.: Congress is to have power—

" 'To provide for calling forth the militia to execute the laws of the *Confederate States*, suppress insurrections, and *repel invasion*.' Sec. 8, par. 15.

" 'To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the *Confederate States*, *reserving to the States respectively the appointment of officers and the authority of training the militia* according to the discipline prescribed by Congress.' Par. 16.

" *Congress*, then, has the power to provide for *organizing* the arms-bearing people of the States into militia. Each *State* has the power to *officer* and *train* them when organized.

" *Congress* may call forth the militia to execute *Confederate* laws. The *State* has not surrendered the power to call them forth to execute *State* laws.

" *Congress* may call them forth to repel invasion; so may the *State*, for it has expressly reserved this right.

" *Congress* may call them forth to suppress insurrection, and so may the *State*, for the power is impliedly reserved of governing all the militia except the part in actual service of the Confederacy.

"I confess myself at a loss to perceive in what manner these careful and well-defined provisions of the Constitution regulating the organization and government of the militia can be understood as applying in the remotest degree to the armies of the Confederacy; nor can I conceive how the grant of *exclusive* power to declare and carry on war by armies raised and supported by the Confederacy, is to be restricted or diminished by the clauses which grant a *divided* power over the militia. On the contrary, the delegation of authority over the militia, so far as granted, appears to me to be plainly an *additional enumerated* power, intended to strengthen the hands of the Confederate Government in the discharge of its paramount duty, the common defence of the States.

"You state, after quoting the 12th, 15th, and 16th grants of power to Congress, that, 'These grants of power all relate to the same subject matter, and are all contained in the same section of the Constitution, and by a well known rule of construction must be taken as a whole, and construed together.'

"This argument appears to me unsound. *All* the powers of Congress are enumerated in one section; and the three paragraphs quoted can no more control each other by reason of their location in the same section, than they

can control any of the other paragraphs preceding, intervening, or succeeding. So far as the subject matter is concerned, I have already endeavored to show that the armies mentioned in the 12th paragraph are a subject matter as distinct from the militia mentioned in the 15th and 16th as they are from the navy mentioned in the 13th. Nothing can so mislead as to construe together, and as a whole, the carefully separated clauses which define the different powers to be exercised over distinct subjects by the Congress. But you add that, 'by the grant of power to Congress to raise and support armies without qualification, the framers of the Constitution intended the regular armies of the Confederacy, and not armies composed of the whole militia of all the States.'

"I must confess myself somewhat at a loss to understand this position. If I am right, that the militia is a *body* of enrolled State soldiers, it is not possible, in the nature of things, that armies raised by the Confederacy can 'be composed of the whole militia of all the States.' The militia may be called forth, in whole or in part, into the Confederate service, but do not thereby become part of the 'armies raised' by Congress. They remain militia, and go home when the emergency which provoked their call has ceased. Armies raised by Congress are of course raised out of the *same population* as the militia organized by the States; and to deny to Congress the power to draft a citizen into the army, or to receive his voluntary offer of services because he is a member of the State militia, is to deny the power to raise an army at all; for, practically, all men fit for service in the army may be embraced in the militia organizations of the several States. You seem, however, to suggest, rather than directly to assert, that the conscript law may be unconstitutional, because it comprehends all arms-bearing men between eighteen and thirty-five years: at least this is an inference which I draw from your expression, 'armies composed of the *whole* militia of *all* the States.' But it is obvious that, if Congress have power to draft into the armies raised by it any citizens at all (without regard to the fact whether they are or not members of militia organizations), the power must be co-extensive with the exigencies of the occasion, or it becomes illusory; and the extent of the exigency must be determined by Congress; for the Constitution has left the power without any other check or restriction than the Executive veto. Under ordinary circumstances, the power thus delegated to Congress is scarcely felt by the States. At the present moment, when our very existence is threatened by armies vastly superior in numbers to ours, the necessity for defence has induced a call, not 'for the whole militia of all the States,' not for *any* militia, but for *men* to compose *armies* for the Confederate States.

"Surely, there is no mystery on this subject. During our whole past history, as well as during our recent one year's experience as a new confederacy, the militia 'have been called forth to repel invasion' in numerous instances; and they never came otherwise than as bodies organized by the

States, with their company, field, and *general officers*; and when the emergency had passed, they went home again.

"I cannot perceive how any one can interpret the conscription law as taking away from the States the power to appoint officers to their militia. You observe on this point in your letter, that unless your construction is adopted 'the very object of the States in reserving the power of appointing the officers is defeated, and that portion of the Constitution is not only a nullity, but the whole military power of the States, and the entire control of the militia, with the appointment of the officers, is vested in the Confederate Government, whenever it chooses to call its own action "raising an army," and not calling forth the militia.'

"I can only say, in reply to this, that the power of Congress depends on the real nature of the act it proposes to perform, not on the name given to it; and I have endeavored to show that its action is merely that of 'raising an army,' and bears no semblance to 'calling forth the militia.' I think I may safely venture the assertion, that there is not one man out of a thousand of those who will do service under the Conscription Act that would describe himself, while in the Confederate service, as being a militia man; and if I am right in this assumption, the popular understanding concurs entirely with my own deductions from the Constitution as to the meaning of the word 'militia.'

"My answer has grown to such a length that I must confine myself to one more quotation from your letter. You proceed: 'Congress shall have power to *raise armies*. How shall it be done? The answer is clear. In conformity to the provisions of the Constitution, which expressly provides that when the militia of the States are called forth to *repel invasion*, and employed in the service of the Confederate States, which is now the case, the State shall appoint the officers.'

"I beg you to observe that the answer, which you say is clear, is not an answer to the question put. The question is: How are armies to be raised? The answer given is, that when militia are called forth to repel invasion the State shall appoint the officers.

"There seems to me to be a conclusive test on this whole subject. By our Constitution Congress may declare war, *offensive* as well as *defensive*. It may acquire territory. — Now, suppose that for good cause, and to right unprovoked injuries, Congress should declare war against Mexico, and invade Sonora. The militia could not be called forth in such a case, the right to call it being limited 'to repel invasions.' Is it not plain that the law now under discussion, if passed under such circumstances, could by no possibility be aught else than a law to 'raise an army'? Can one and the same law be construed into a 'calling forth the militia,' if the war be defensive, and a 'raising of armies,' if the war be offensive?

"At some future day, after our independence shall have been established, it is no improbable supposition that our present enemy may be tempted to

abuse his naval power, by depredation on our commerce, and that we may be compelled to assert our rights by offensive war. How is it to be carried on? Of what is the army to be composed? If this Government cannot call on its arms-bearing population otherwise than as militia, and if the militia can only be called forth to repel invasion, we should be utterly helpless to vindicate our honor or protect our rights. War has been well styled 'the terrible litigation of nations.' Have we so formed our Government that in this litigation we must never be plaintiff? Surely this cannot have been the intention of the framers of our compact.

"In no aspect in which I can view this law, can I find just reason to distrust the propriety of my action in approving and signing it; and the question presented involves consequences, both immediate and remote, too momentous to permit me to leave your objections unanswered.

"In conclusion, I take great pleasure in recognizing that the history of the past year affords the amplest justification for your assertion, that if the question had been whether the conscription law was necessary in order to raise men in Georgia, the answer must have been in the negative. Your noble State has promptly responded to every call that it has been my duty to make on her; and to you, personally, as her Executive, I acknowledge my indebtedness for the prompt, cordial, and effective co-operation you have afforded me in the effort to defend our common country against the common enemy.

"I am, very respectfully,

"Your obedient servant,

"JEFFERSON DAVIS.

"His Excellency Jos. E. Brown,

"Governor of Georgia,

"Milledgeville."

"ATLANTA, June 21, 1862.

"HIS EXCELLENCY JEFFERSON DAVIS, PRESIDENT, &c.

"*Dear Sir:*—I have the honor to acknowledge the receipt of your letter of the 29th ult., in reply to mine of the 8th of the same month, which reached my office, at Milledgeville, on the 8th inst., together with a copy of the written opinion of the Attorney-General, and has since been forwarded to me at Canton, where I was detained by family affliction.

"Your reply, prepared after mature deliberation and consultation with a Cabinet of distinguished ability, who concur in your view of the constitutionality of the Conscription Act, doubtless presents the very strongest argument in defence of the Act, of which the case is susceptible.

"Entertaining, as I do, the highest respect for your opinions and those of each individual member of your Cabinet, it is with great diffidence that I express the conviction, which I still entertain, after a careful perusal of your

letter, that your argument fails to sustain the constitutionality of the Act; and that the conclusion at which you have arrived is maintained by neither the contemporaneous construction put upon the Constitution by those who made it, nor by the practice of the United States Government under it during the earlier and better days of the Republic, nor by the language of the instrument itself, taking the whole context and applying to it the well established rules by which all constitutions and laws are to be construed.

"Looking to the magnitude of the rights involved, and the disastrous consequences which, I fear, must follow what I consider a bold and dangerous usurpation by Congress of the reserved rights of the States, and a rapid stride towards military despotism, I very much regret that I have not, in the preparation of this reply, the advice and assistance of a number equal to your Cabinet, of the many 'eminent citizens' who, you admit, entertain with me, the opinion that the Conscription Act is a palpable violation of the Constitution of the Confederacy. Without this assistance, however, I must proceed individually to express to you some views, in addition to those contained in my former letter, and to reply to such points made by you in the argument, as seem to my mind to have the most plausibility in sustaining your conclusion.

"The sovereignty and independence of each one of the thirteen States at the time of the adoption of the Constitution of the United States, will not, I presume, be denied by any, nor will it be denied that each of these States acted in its separate capacity, as an independent sovereign, in the adoption of the Constitution. The Constitution is, therefore, a league between sovereigns. In order to place upon it a just construction, we must apply to it the rules, which, by common consent, govern in the construction of all written constitutions and laws. One of the first of these rules is, to inquire what was the intention of those who made the Constitution.

"To enable us to learn this intention, it is important to inquire what they did, and what they said they meant, when they were making it. In other words, to inquire for the contemporaneous construction put upon the instrument by those who made it, and the explanations of its meaning by those who proposed each part in the convention, which induced the convention to adopt each part.

"I incorporated into my last letter a number of quotations from the debates of prominent members of the convention upon the very point in question, showing that it was not the intention of the convention to give to Congress the unlimited control of all the men able to bear arms in the States, but that it was their intention to reserve to the States the control over those who composed their militia, by retaining to the States the appointment of the officers to command them, even while 'employed in the service of the Confederate States.' I might add many other quotations containing strong proofs of this position, from the debates of the Federal convention, and the action of the State conventions which adopted the Constitution; but I deem it

unnecessary, as you made no allusion to the contemporaneous construction in your reply, and I presume you do not insist that the explanations of its meaning given by those who made it sustain your conclusion.

"I feel that I am fully justified by the debates and the action of the Federal and State conventions, in saying that it was the intention of the thirteen sovereigns, to constitute a common agent with certain specific and limited powers, to be exercised for the good of all the principals, but that it was not the intention to give the agent the power to *destroy the principals*. The agent was expected to be rather the servant of several masters, than the master of several servants. I apprehend it was never imagined that the time would come when the agent of the sovereigns would claim the power to take from each sovereign every man belonging to each, able to bear arms, and leave them with no power to execute their own laws, suppress insurrections in their midst, or repel invasions.

"In reference to the practice of the United States Government under the Constitution, I need only remark, that I do not presume it will be contended that Congress claimed or exercised the right to compel persons constituting the militia of the States, by *conscription or compulsion*, to enter the service of the General Government, without the consent of their State Government, at any time while the Government was administered, or its councils controlled, by any of the fathers of the Republic who aided in the formation of the Constitution.

"If, then, the constitutionality of the Conscription Act cannot be established by the contemporaneous construction of the Constitution, nor by the earlier practice of the Government while administered by those who made the Constitution, the remaining inquiry is, can it be established by the language of the instrument itself, taking the whole context, and applying to it the usual rules of construction, which were generally received and admitted to be authoritative at the time it was made.

"The Constitution, in express language, gives Congress the power to 'raise and support armies.' You rest the case here, and say you know of but two modes of 'raising armies,' to wit: 'by voluntary enlistment, and by draft or conscription,' and you conclude that the Constitution authorizes Congress to raise them by either or both these modes.

"To enable us to arrive at an intelligent conclusion as to the meaning intended to be conveyed by those who used this language, it is necessary to inquire what signification was attached to the terms used, at the time they were used; and it is fair to infer that those who used them intended to convey to the minds of others the idea which was at that time usually conveyed by the language adopted by them. Apply this rule, and what did the convention mean by the term 'to raise armies?' I prefer that the Attorney-General should answer. He says in his written opinion:

"Inasmuch as the words "militia," "armies," "regular troops," and "volunteers," had acquired a definite meaning in Great Britain before the Revolu-

tionary war, and as we have derived most of our ideas on this subject from that source, we may safely conclude that the term "militia," in our Constitution, was used in the sense attached to it in that country.'

"Upon this statement of the Attorney-General rests his definition of the term 'militia,' which is an English definition; and upon that definition rests all that part of your argument, which draws a distinction, however unsubstantial, between *calling forth* the militia by the authority of Congress, and *calling forth* all men in the State who compose the militia by the same authority. In the one case, you term it *calling forth the militia*, and admit that the State has the right to appoint the officers: in the other case, while every man called forth may be the same, you term it *raising an army*, and deny to the State the appointment of the officers. As this is necessary to sustain the constitutionality of the Conscription Act, you cannot disapprove the statement of the Attorney-General above quoted. If, then, the Attorney-General is right, that the terms 'militia,' 'armies,' 'regular troops,' and 'volunteers' had acquired a definite meaning in Great Britain before the Revolutionary war, and we have derived most of our ideas on this subject from that source, and if we may safely conclude that the term 'militia' in our Constitution was used in the sense attached to it in that country, is it not equally safe to conclude that the terms 'armies,' and to 'raise armies,' having acquired a definite meaning in Great Britain before the Revolutionary war, were used in our Constitution in the same sense attached to them in that country?

"At that period, the government of Great Britain had no Conscription Act, and did not 'raise armies' by conscription; therefore the convention which made our Constitution, 'having derived most of their ideas on this subject from that source,' it is 'safe to conclude' that they used the term to 'raise armies' in the sense attached to it in that country. It necessarily follows, the Attorney-General being the judge, that your conclusion is erroneous, and that Congress has no power to 'raise armies,' not even her regular armies,' *by conscription*.

"But, as those who framed the Constitution foresaw that Congress might not be able, by voluntary enlistment, to raise regular or standing armies sufficiently large to meet all emergencies, or that the people might refuse to vote supplies to maintain in the field armies so large and dangerous, they wisely provided, in connection with this grant of power, another relating to the same subject-matter, and gave Congress the additional power to call forth the militia to execute the laws of the Confederate States, suppress insurrections, and repel invasions.

"In this connection, I am reminded by your letter, that Congress has power 'to declare war,' which you say embraces the right to declare offensive as well as defensive war; and you argue, as I understand, that the militia can only be called forth to repel invasions, and not to invade a foreign power, and that Congress would be powerless to redress our wrongs, or vindicate

our honor, if it could not 'raise armies' by conscription, to invade foreign powers. If this were even so, it might be an objection to the constitutional government, for want of sufficient strength, which is an objection often made by those who favor more absolute power in the general government, and who attempt, by a latitudinarian construction of the Constitution, to supply powers which were never intended to be given to it. But does the practical difficulty which you suggest in fact exist? I maintain that it does not. And I may here remark, that those who established the government of our fathers did not look to it as a great military power, whose people were to live by plundering other nations in foreign aggressive war, but as a peaceful government, advised by the Father of his Country to avoid 'entangling alliances' with foreign powers.

"But you suppose, after our independence is established, that our present enemy may be tempted to abuse his naval power, by depredation on our commerce, and that we may be compelled to assert our rights by offensive war, and you ask, 'How is it to be carried on?' 'Of what is the army to be composed?' The answer is a very simple one. If the aggression is such as to justify us in the declaration of offensive war, our people will have the intelligence to know it, and the patriotism and valor to prompt them to respond by voluntary enlistment, and to offer themselves under officers of their own choice, through their State authorities, to the Confederacy, just as they did in the offensive war against Mexico, when many more were offered than were needed, without conscription or coercion; and just as they have done in our present defensive war, when almost every State has responded to every call, by sending larger numbers than were called for, and larger than the government can arm and make effective. There is no danger that the honor of the intelligent free-born citizens of this Confederacy will ever suffer because the government has not the power to *compel* them to vindicate it. They will hold the government responsible if it refuses to *permit* them to do it. To doubt this, would seem to be to doubt the intelligence and patriotism of the people, and their competency for self-government.

"It would be very dangerous, indeed, to give the general government the power to engage in an offensive foreign war, the justice of which was condemned by the governments of the States, and the intelligence of the people, and to compel them to prosecute it for two years, the term for which appropriations can be made and continued by the Congress declaring it. Hence the wisdom of our ancestors in limiting the power of Congress over the militia, or great body of our people, so as to prohibit the prosecution, by *conscription or coercion*, of an offensive foreign war, which may be condemned by an intelligent public opinion.

"France has a conscription act, which Great Britain has not. Both are warlike powers often engaged in foreign offensive wars. What advantage has the conscription law given to France over Great Britain? Has not the latter been as able as the former to 'raise armies' sufficient to vindicate her

honor and maintain her rights? When France had no conscription law at one period of her history, she was a republic. Soon after she had a conscription law she became an empire and her ruler an emperor, leaving her people without the constitutional safeguards which protect the people of Great Britain.

"But you ask, 'Shall we never be plaintiff in this "terrible litigation of nations?"' If the litigation commends itself to the intelligence of the people as just, they will not hesitate to put themselves at the command of the Government to assume the plaintiff's position. The eagerness with which the people of the Confederacy now desire that we assume the plaintiff's position, and become the attacking and invading party, instead of acting constantly upon the defensive, is evidence to sustain my conclusion on this point.

"That those who framed the Constitution looked to a state of war as tending to concentrate the power in the Executive, and as unfavorable to constitutional liberty, and did not intend to encourage it, unless in cases of absolute necessity, and did not, therefore, form the government with a view to its becoming a power often engaged in offensive war, may be inferred from the language of Mr. Madison. He says:

" 'War is, in fact, the true nurse of Executive aggrandizement. In war a physical force is to be created, and it is the Executive will which is to direct it. In war the public treasures are to be unlocked, and it is the Executive hand which is to dispense them. In war, the honors and emoluments of office are to be multiplied, and it is the Executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered, and it is the Executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast—ambition, avarice, vanity, the honorable or venial love of fame—are all in conspiracy against the desire and duty of peace.' See *Federalist*, page 452.

"In connection with this remark of Mr. Madison, it may not be amiss to add one from Mr. Calhoun. That great and good man, who may justly be styled the champion of *State Rights and Constitutional Liberty*, in the first volume of his works, page 361, while speaking of the war which was forced upon Mr. Madison while President, by Great Britain, says:

" 'It did more; for the war, however just and necessary, gave a strong impulse adverse to the Federal and favorable to the national line of policy. This is, indeed, one of the unavoidable consequences of war and can be counteracted only by bringing into full action the *negatives* necessary to the protection of the *reserved powers*. These would of themselves have the effect of preventing wars, so long as they could be honorably and safely avoided; and, when necessary, of arresting to a great extent the *tendency of the Government to transcend the limits of the Constitution during its prosecution*, and of correcting all departures after its termination. It was by force of the tribunitial power that the plebeians retained for so long a period their liberty in the midst of so many wars.'

"I beg to call special attention to the portions of the above quotation which I have *italicised*.

"Having rested the constitutionality of the Conscription Act upon the power given to Congress to 'raise armies,' you enunciate a doctrine which, I must be pardoned for saying, struck me with surprise; not that the doctrine was new, for it was first proclaimed, I believe, almost as strongly by Mr. Hamilton in the *Federalist*, but because it found an advocate in you, whom I had for many years regarded as one of the ablest and boldest defenders of the doctrines of the State Rights school, in the old government. Your language is:

"I hold that when a specific power is granted by the Constitution, like that now in question, to 'raise armies,' Congress is the judge whether the law passed for the purpose of executing that power, is necessary and proper.'

"Again you say:

"The true and only test is, to enquire whether the law is intended and calculated to carry out the object, whether it devises and creates an instrumentality for executing the specific power granted, and if the answer be in the affirmative the law is constitutional.'

"From this you argue that the Conscription Act is calculated and intended to 'raise armies,' and, therefore, constitutional.

"I am not aware that the proposition was ever stated more broadly in favor of unrestrained Congressional power, by Webster, Story, or any other statesman or jurist of the Federal school.

"This is certainly not the doctrine of the Republican party of 1793, as set forth in the Virginia and Kentucky Resolutions. The Virginia Resolutions use the following language, that 'It (the General Assembly of Virginia) views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a *deliberate, palpable, and dangerous exercise of other powers* not granted by said compact, *the States* who are parties thereto *have the right* and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the *authorities, rights, and liberties appertaining to them*. That the General Assembly doth also express its deep regret that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by a forced construction of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases—which having been copied from the very limited grant of powers in the former articles of confederation were the less liable to be misconstrued—so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases, so as to consolidate the States by degrees into one sovereignty, the obvious tendency and

inevitable result of which would be to transform the present republican system of the United States *into an absolute or at least a mixed monarchy.*'

"The following quotations are from the Kentucky Resolutions drawn up by Mr. Jefferson himself (the italics, as in the last quotation, are my own), 'That the several States composing the United States of America are not united on the principle of *unlimited submission* to the general Government, but that, by a compact under the style and title of a Constitution of the United States, and of amendments thereto, they constituted a general Government for special purposes—delegated to that Government certain definite powers; *reserving each State to itself, the residuary mass of right to their own self-government*; that whensoever the general Government *assumes undelegated powers its acts are unauthorized, void and of no force*; that to this compact each State acceded as a State, and is an integral party—its co-States forming as to itself the other party; *that the government created by this compact was not made the exclusive or final JUDGE of the extent of the powers delegated to it—since that would have made ITS DISCRETION and not the Constitution the measure of its powers*; but that, as in all other cases of compact among parties having no common JUDGE, each has an equal right to JUDGE *for itself as well of infractions as of the mode and measure of redress.*'

"And again:

"*'That the construction applied by the general Government (as evinced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power to lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defence and general welfare of the United States; and to make all laws necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution. That words meant by that instrument to be subsidiary only to the execution of the limited powers ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of the instrument.'*

"But let us examine your doctrine a little further and see whether it can be reconciled to the construction lately put upon the Constitution by the States composing the Confederacy over which you preside, and the action lately taken by them.

"The Constitution of the United States gives Congress the power to provide for calling forth the militia to 'suppress insurrections.' Carry out your doctrine, and Congress must of course be *the judge* of what constitutes an insurrection, as well as of the means '*necessary and proper*' to be used in executing the specific powers given to Congress to suppress it. Georgia, claiming that the Congress of the United States had abused the specific powers granted to it, and passed laws which were not '*necessary and proper*' in executing these specific powers which were injurious to her people, and claiming to be herself the *judge*, seceded from the Union. Congress denied her

power or right to do so, and acting upon the doctrine laid down by you, Congress, claiming to be *the judge*, proceeded to adjudicate the case, and determined that the action of Georgia amounted to an insurrection, and passed laws for its suppression. Among others, they have passed a law, if we may credit the newspapers, which authorizes the President to arm our negroes against us. Congress will, no doubt, justify this act, under the specific power given to it by the Constitution, to 'raise armies,' as the armies as well as the militia may be used to suppress insurrection, and execute the laws. Apply the test laid down by you, and inquire, is this law 'calculated and intended' to carry out the object (the suppression of the insurrection, and the execution of the laws of the United States in Georgia)? and does it 'devise and create an instrumentality for executing the specific power granted?' Congress, *the judge*, answers the question in the affirmative. Therefore the law is constitutional.

"Again, suppose you are right, and Congress has the constitutional power to 'raise armies' by conscription, and, without the consent of the States, to compel every man in the Confederacy between 18 and 35 years old, able to bear arms, to enter these armies, you must admit that Congress has the same power to extend the law, and compel every man between 18 and 60 to enter. And you must admit that the grant of power is as broad in times of peace as in times of war, as there is in the grant no language to limit it to times of war. It follows that Congress has the absolute control of every man in the State, whenever it chooses to execute to the full extent the power given it by the Constitution to 'raise armies.' How easy a matter it would have been, therefore, had the Congress of the United States understood the full extent of its power, to have prevented in a manner perfectly constitutional the secession of Georgia and Mississippi from the Union. It was only necessary to pass a *conscription law* declaring every man in both States able to bear arms, to be in the military service of the United States, and that each should be treated as a deserter if he refused to serve; and that Congress, *the judge*, then decide this law was 'necessary and proper,' and that it created an instrumentality for the execution of one of the specific powers granted to Congress to provide for the execution of the laws of the Union in the two States, or to provide for 'raising armies.' This would have left the States without a single man at their command, without the power to organize or use military force, and without free men to constitute even a convention to pass an ordinance of secession.

"If it is said the people of the States would have refused to obey this law of Congress, and would have gone out in defiance of it; it may be replied that this would have been revolution and not peaceful secession, the right for which we have all contended—though our enemies have not permitted us to part with them in peace—the right for which we are now fighting.

"Your doctrine carried out not only makes Congress supreme over the States, at any time when it chooses to exercise the full measure of its power

to 'raise armies,' but it places the very existence of the State governments subject to the will of Congress. The Conscription Act makes no exception in favor of the officers necessary to the existence of the State government, but in substance declares that they shall all enter the service of the Confederacy, at the call of the President, under officers which are in future to be appointed by the President.

"As already remarked, Congress has as much power to extend the act to embrace all between 16 and 60, as it had to take all between 18 and 35. If the act is constitutional, it follows that Congress has the power to compel the Governor of every State in the Confederacy, every member of every Legislature of every State, every judge of every court in every State, every officer of the militia of every State, and all other State officers to enter the military service as privates in the armies of the Confederacy, under officers appointed by the President, at any time when it so decides. In other words, Congress may disband the State governments any day when it, as *the judge*, decides that by so doing it 'creates an instrumentality for executing the specific power' to 'raise armies.'

"If Congress has the right to discriminate, and take only those between 18 and 35, it has the right to make any other discrimination it may judge 'necessary and proper' in the 'execution of the power,' and it may pass a law in time of peace or war, if it should conclude the State governments are an evil, that all State officers, executive, legislative, judicial, and military, shall enter the armies of the Confederacy as privates under officers appointed by the President, and that the army shall from time to time be recruited from other State officers as they may be appointed by the States.

"To state the case in different form, Congress has the power under the 12th paragraph of the 8th section of the 1st article of the Constitution to disband the State governments, and leave the people of the States with no other government than such military despotism as Congress in the exercise of the specific power to 'raise armies' (which I understand you to hold is a distinct power to be construed separately) may, after an application of your test, *judge* to be best for the people.

"For, as all the State officers which I mention might make effective privates in the armies of the Confederacy, and as the law passed to compel them to enter the service might 'create an instrumentality for executing the specific power' to 'raise armies,' Congress, *the judge*, need only so decide and the act would be constitutional.

"I may be reminded, however, that Congress passed an *Exemption Act* after the passage of the Conscription Act, which exempts the Governors of the States, the members of the State Legislatures, the judges of the State courts, etc., from the obligation to enter the military service of the Confederacy as privates under Confederate officers. It must be borne in mind, however, that this very act of exemption by Congress is an assertion of the right vested in Congress to compel them to go, when Congress shall so direct, as Congress

has the same power to repeal which it had to pass the Exemption Act. All the State officers, therefore, are exempt from conscription by the *grace and special favor of Congress* and not by *right*, as the governments of the independent States whose agent, and not master, Congress had been erroneously supposed to be. If this doctrine be correct, of what value are *State rights* and *State sovereignty*?

"In my former letter I insisted, under the general rule, that the 12th, 15th and 16th paragraphs of the section under consideration, all relating to the *same subject matter*, should be construed together. While your language on this point is not so clear as in other parts of your letter, I understand you to take issue with me here. You say:

"Nothing can so mislead as to construe together and as one whole the carefully separated clauses which define the different powers to be exercised over distinct subjects by Congress."

"These are not carefully separated clauses which relate to different powers to be exercised over *distinct subjects*. They all relate to the *same subject matter*, the authority given to Congress over the question of war and peace. They all relate to the use of armed force by authority of Congress. If, therefore, Coke, Blackstone and Mansfield of England, and Marshall, Kent and Story of this country, with all other intelligent writers on the rules of construction, are to be respected as authority, there can, it would seem, be no doubt of the correctness of the position that these three paragraphs, together with all others in the Constitution which relate to the same subject matter, are to be construed together 'as one whole.'

"Construe them together, and the general language in one paragraph is so qualified by another paragraph upon the *same subject matter*, that all can stand together, and the whole, when taken together, establishes to my mind the unsoundness of your argument and the fallacy of your conclusion.

"But I must not omit to notice your definition of the term 'militia,' and the deductions which you draw from it.

"You adopt the definition of the Attorney-General that 'the militia are a body of soldiers in a State enrolled for discipline.' Admit, for the purposes of the argument, the correctness of the definition. All persons, therefore, who are enrolled for discipline under the laws of Georgia constitute her militia. When the persons thus enrolled (the militia) are employed in the service of the Confederate States, the Constitution expressly reserves to Georgia the appointment of the officers. The Conscription Act gives the President the power by compulsion to employ every one of those persons, between 18 and 35, in the service of the Confederate States; and denies to the State the appointment of a single officer to command them while thus 'employed.' Suppose Congress, at its next session should extend the Act so as to embrace all between 18 and 45, what is the result? 'The body of soldiers in the State enrolled for discipline' are every man 'employed in the service of the Confederacy,' and the right is denied to the State to appoint a single officer

when the Constitution says she shall appoint them all. Is it fair to conclude when the States expressly and carefully reserved the control of their own militia, by reserving the appointment of the officers to command them, that they intended under the general grant of power to 'raise armies' to authorize Congress to defeat the reservation and control the militia with their officers by calling the very same men into the field, *individually* and not *collectively*, organizing them according to its own will, and terming its action 'raising an army' and not *calling forth the militia*? Surely the great men of the revolution, when they denied to the general government the appointment even of the *general officers* to command the militia when employed in the service of the Confederacy, did not imagine that the time would come so soon when that government, under the power to 'raise armies,' would claim and exercise the authority to call into the field the whole militia of the States individually, and deny to the States the appointment of the lowest lieutenant, and justify the act on the ground that Congress did not choose to call them into service in their collective capacity, and deny that they were militia if called into service in any other way.

"If Congress has the power to call forth the whole enrolled force or militia of the States in the manner provided by the Conscription Act, there is certainly no *obligation* upon Congress ever to *call them forth* in any other manner, and it rests in the *discretion* of Congress whether or not the States shall ever be permitted to exercise their reserved right, as Congress has the power in every case to defeat the exercise of the right by calling forth the militia under a Conscription Act, and not by requisitions made upon the States. It cannot be just to charge the States with the folly of making this important reservation, subject to any such power in Congress to render it nugatory at its pleasure.

"Again, you say 'Congress may call forth the militia to execute *Confederate* laws; the *State* has not surrendered the power to call them forth to execute *State* laws.'

"*'Congress may call them forth to repel invasion; so may the State, for it has expressly reserved this right.'*

"*'Congress may call them forth to suppress insurrection, and so may the State.'*

"If the conscription law is to control, and Congress may, without the consent of the State Government, order every man composing the militia of the State, out of the State, into the Confederate service, how is the State to call forth her own militia, as you admit she has reserved the right to do, to execute her own laws, suppress an insurrection in her midst, or repel an invasion of her own territory?

"Could it have been the intention of the States to delegate to Congress the power to take from them without their consent the means of self-preservation, by depriving them of all the strength upon which their very existence depends?

“ After laying down the position that the citizens of a State are not her militia, and affirming that the militia are ‘a body organized by law,’ you deny that the militia constitute any part of the *land or naval forces*, and say they are distinguished from the *land and naval forces*; and you further say they have always been *called forth* as ‘bodies organized by the States,’ with their officers; that they ‘do not become part of the *armies raised* by Congress,’ but remain militia; and that when they had been called forth, and the exigencies which provoked the call had passed, ‘they went home again.’ The militia when *called forth* are taken from the body of the people, to meet an emergency, or to repel invasion. If they go in as ‘bodies organized by the States,’ you hold that they go in *militia*, remain *militia*, and when the exigency is passed they go home *militia*; but if you *call forth* the same men by the Conscription Act for the same purpose, and they remain for the same length of time, and do the same service, they are not *militia*, but the *armies* of the Confederacy, part of the *land or naval force*. In connection with this part of the subject you use the following language :

“ ‘At the present moment, when our very existence is threatened by armies vastly superior in numbers to ours, the necessity for defence has induced a call, not for the whole militia of all the States, not for *any* militia, but for *men* to compose *armies* for the Confederate States.’

“ In the midst of such pressing danger, why was it that there was no necessity for *any* militia; in other words, no necessity for any ‘bodies of men organized by the States,’ as were many of the most gallant regiments now in the Confederate service, who have won on the battle-field a name in history, and laurels that can never fade?

“ Were no more such bodies ‘organized by the States’ needed, because the material remaining within the States of which they must be composed was not reliable? The Conscription Act gives you the very same material. Was it because the officers appointed by the States to command the gallant State regiments and other ‘organized bodies’ sent by the States were less brave or less skilful than the officers appointed by the President to command similar ‘organized bodies’? The officers appointed by the States who now command regiments in the service, will not fear to have impartial history answer this question. Was it because you wished select men for the *armies* of the Confederacy? The Conscription Act embraces *all*, without distinction, between eighteen and thirty-five able to do military duty and not legally exempt. You do not take the militia. What do you take? You take every man between certain ages, of whom the militia is composed. What is the difference between taking the militia and taking all the men who compose the militia? Simply this: In the one case you take them *with their officers appointed by the States*, as the Constitution requires, and call them by their proper name, ‘militia,’ ‘employed in the service of the Confederate States.’ In the other case you take them all as individuals — get rid of the State officers — appoint officers of your own choice, and call them the ‘armies of

the Confederacy.' And yet these armies, like you say the militia do, will 'go home' when the exigency has passed, as it is hoped they are not expected to be permanent like the *regular armies* of the Confederacy; or, in other words, like the *land and naval forces* provided for in the Constitution, from which you distinguish the militia. Indeed, the similarity between these 'armies of the Confederacy,' *called forth* in an emergency, to repel an invasion, to be disbanded when the emergency is passed; and the militia or bodies of troops organized and officered by the States, *called forth* for the same purpose, to be composed of the same material and disbanded at the same time, is most remarkable in everything, except the name and the appointment of the officers.

"Excuse me for calling your attention to another point in this connection.

"As you admit that the militia have always been *called forth* as 'bodies organized by the States,' and when thus called forth that the States have always appointed the officers, I presume you will not deny that when the President, by authority of Congress, has made a call upon a State for 'organized bodies of soldiers,' and they have been furnished by the State from the body of her people, they have entered the service as part of the militia of the State 'employed in the service of the Confederate States' under the 15th and 16th paragraphs of the 8th section of the 1st article of the Constitution.

"Your message to Congress recommending its passage shows that there was no necessity for the act, to enable you to get troops, as you admit that the Executives of the States had enabled you to keep in the field *adequate forces*, and also that the spirit of resistance among the people was such that it needed to be regulated and not stimulated. You say:

"'I am happy to assure you of the entire harmony of purpose and cordiality of feeling which have continued to exist between myself and the Executives of the several States, and it is to this cause that our success in keeping adequate forces in the field is to be attributed.' Again you say:

"'The vast preparations made by the enemy for a combined assault at numerous points on our frontier and sea-coast have produced the result that might have been expected. They have animated the people with a spirit of resistance so general, so resolute, and so self-sacrificing, that it requires rather to be regulated than to be stimulated.'

"If then the Executives of the States by their cordial co-operation had enabled you to keep in the field 'adequate forces,' and the spirit of resistance was as high as you state, there was no need of a conscription act to enable you to 'raise armies.'

"Since the invasion of the Confederacy by our present enemy, you have made frequent calls upon me, as Governor of this State, for 'organized bodies' of troops. I have responded to every call and sent them as required, 'organized' according to the laws of the State, and commanded by officers appointed by the State, and in most instances fully armed, accoutred, and equipped. These bodies were *called forth* to meet an emergency, and assist

in repelling an invasion. The emergency is not yet passed, the invasion is not yet repelled, and they have not yet returned home. If your position be correct, they constitute no part of the *land or naval forces*, as they were not *organized* nor their officers appointed by the President, as is the case with the *armies* of the Confederacy, but they were *called forth* as bodies 'organized and their officers appointed by the States.' Hence they are part of the militia of Georgia employed in the service of the Confederate States as provided by the two paragraphs of the Constitution above quoted, and by paragraph 16 of section 9 of the 1st article, which terms them 'militia in actual service in time of war or public danger.' They entered the service with only the training common to the citizens of the State. They are now well trained troops. But having gone in as 'bodies organized by the State,' or as *militia*, you say they remain militia, and go home militia. In this case we seem to agree that the State, under the express reservation in the Constitution, has the right to appoint the officers. I have the written opinion of Mr. Benjamin, then Secretary of War, about the time of the last call for twelve regiments, concurring in this view, and recognizing this right of the State. And it is proper that I should remark that the State has, in each case, been permitted to exercise this right, when the troops entered the service in compliance with a requisition upon the State for 'organized bodies of troops.' The right does not stop here, however. The Constitution does not say the State shall appoint the officers while the organizations may be forming to enter the service of the Confederacy, but while they 'may be employed in the service of the Confederate States.' Many thousands are now *so employed*. Vacancies in the different offices are frequently occurring by death, resignation, etc. The laws of this State provide how these vacancies are to be filled, and it is *not* to be done by promotion of the officer next in rank, except in a single instance, but by election of the regiment, and commission by the Governor. The right of the State to appoint these officers seems to be admitted, and is indeed too clear to be questioned.

"The Conscription Act, if it is to be construed according to its language, and the practice which your generals are establishing under it, denies to the State the exercise of this right, and prescribes a rule for selecting all officers in future, unknown to the laws of Georgia, and confers upon the President the power to commission them. Can this usurpation (I think no milder term expresses it faithfully) be justified under the clause in the Constitution which gives Congress power to 'raise armies?' and is this part of the Act constitutional? If not, you have failed to establish the constitutionality of the Conscription Act.

"The 14th paragraph of the 9th section of the 1st article of the Constitution of the Confederate States declares that—

"'A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.' This was no part of the original Constitution as reported by the convention and

adopted by the States. But 'the convention of a number of the States having at the time of their adopting the Constitution expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, Congress at the session begun and held at the city of New York on Wednesday the 4th of March, 1789, proposed to the Legislatures of the several States twelve amendments, ten of which only were adopted.'

"The second amendment was the one above quoted, which shows very clearly that the States were jealous of the control which Congress might claim over their militia, and required on this point a further 'restrictive clause' than was contained in the original Constitution.

"The 16th paragraph of the preceding section expressly reserves to the States 'the authority of *training* the militia according to the discipline prescribed by Congress.' In connection with this, you admit that the States reserved the right to call forth their own militia to execute their own laws, suppress insurrections or repel invasions. This authority to *call them forth* would have been of no value without the authority to *appoint officers to command them*; and the further authority to *train* them; as they cannot without *officers and training* be the *well regulated militia* which the Constitution says is 'necessary to the security of a free State.'

"The conclusion would seem naturally to follow, that the States did not intend, by any general words used in the grant of power, to give Congress the right to take from them, as often as appointed, the officers selected by them to *train and regulate* their militia and prepare them for efficiency, when they may be called forth to support the very existence of the State.

"The Conscription Act embraces so large a proportion of the militia officers of this State, as to disband the militia in the event they should be compelled to leave their commands. This would leave me without the power to reorganize them, as a vacancy can only be created in one of these offices by resignation of the incumbent, or by the voluntary performance of some act which amounts to an abandonment of his command, or by a sentence of a court martial dismissing him from office. The officer who is dragged from his command by conscription, or compulsion, and placed in the ranks, is in neither category; and his office is no more vacated than the office of a judge would be, if he were ordered into military service without his consent. And unless there be a vacancy I have no right to fill the place, either by ordering an election, or by a brevet appointment. I have no right in either case to commission a successor so long as there is a legal incumbent.

"Viewing the Conscription Act in this particular as not only unconstitutional, but as striking a blow at the very existence of the State, by disbanding the portion of her militia left within her limits, when much the larger part of her 'arms-bearing people' are absent in other States in the military service of the Confederacy, leaving their families and other helpless women and children, subject to massacre by negro insurrection for want of an organ-

ized force to suppress it, I felt it an imperative duty which I owed the people of this State, to inform you in a former letter that I could not permit the disorganization to take place, nor the State officers to be compelled to leave their respective commands and enter the Confederate service as conscripts. —Were it not a fact well known to the country that you now have in service tens of thousands of men without arms and with no immediate prospect of getting arms, who must remain for months consumers of our scanty supplies of provisions, without ability to render service, while their labor would be most valuable in their farms and workshops, there might be the semblance of a plea of necessity for forcing the *State officers* to leave their commands, with the homes of their people unprotected, and go into camps of instruction, under Confederate officers, often much more ignorant than themselves of military science or training. I must, therefore, adhere to my position and maintain the integrity of the State Government in its executive, legislative, judicial and military departments, as long as I can command sufficient force to prevent it from being disbanded, and its people reduced to a state of provincial dependence upon the central power.

“If I have used strong language in any part of this letter, I beg you to attribute it only to my zeal in the advocacy of principles and a cause which I consider, no less than the cause of constitutional liberty, imperilled by the erroneous views and practice of those placed upon the watch-tower as its constant guardians.

“In conclusion, I beg to assure you that I fully appreciate your expressions of personal kindness, and reciprocate them in my feelings towards you to the fullest extent.

“I know the vast responsibilities resting upon you, and would never willingly add unnecessarily to their weight, or in any way embarrass you in the discharge of your important duties.—While I cannot agree with you in opinion upon the grave question under discussion, I beg you to command me at all times when I can do you a personal service, or when I can, without a violation of the constitutional obligations resting upon me, do any service to the great cause in which we are all so vitally interested.

“Hoping that a kind Providence may give you wisdom so to conduct the affairs of our young Confederacy as may result in the early achievement of our independence, and redound to the ultimate prosperity and happiness of our whole people,

“I have the honor to be, very respectfully,

“Your obedient servant,

“JOSEPH E. BROWN.

“P. S.—Since the above letter was written I see, somewhat to my surprise, that you have thought proper to publish *part* of our unfinished correspondence.

“In reply to my first letter you simply stated on the point in question that

the constitutionality of the Act was derivable from that paragraph in the Constitution which gives Congress the power to raise and support armies. I replied to that letter with no portion of your argument but the simple statement of your position before me. You then with the aid of your Cabinet replied to my second letter, giving the argument by which you attempt to sustain your position, and without allowing time for your letter to reach me, and a reply to be sent, you publish my second letter and your reply, which is your first argument of the question. I find these two letters not only in the newspapers but also in pamphlet form, I presume by your order, for general circulation.

"While I cannot suppose that your sense of duty and propriety would permit you to publish part of an unfinished correspondence for the purpose of forestalling public opinion, I must conclude that your course is not the usual one in such cases. As the correspondence was an official one upon a grave constitutional question, I had supposed it would be given to the country through Congress and the Legislature of the State.

"But as you have commenced the publication in this hasty and as I think informal manner, you will admit that I have no other alternative but to continue it. I must, therefore, request as an act of justice that all newspapers which have published part of the correspondence, insert this reply.

"J. E. B."

"EXECUTIVE DEPARTMENT, }
RICHMOND, July 10, 1862. }

"*Dear Sir:*—I have received your letter of 21st ult., and would have contented myself with the simple acknowledgment of its receipt but for one or two matters contained in it, which seem to require distinct reply.

"I deemed it my duty to state my views in relation to the constitutionality of the conscript law for the reasons mentioned in my letter to you, but it was no part of my intention to enter into a protracted discussion. It was convenient to send my views to others than yourself, and for this purpose I caused my letter, together with yours, to be printed in pamphlet form. I am not aware of having omitted any part of your observations, nor did I anticipate any further correspondence on the subject. I supposed you had fully stated your views as I had stated mine, and no practical benefit could be attained by further discussion.

"It is due however to myself to disclaim in the most pointed manner a doctrine which you have been pleased to attribute to me, and against which you indulge in lengthened argument. Neither in my letter to you, nor in any sentiment ever expressed by me, can there be found just cause to impute to me the belief that Congress is the final judge of the constitutionality of a contested power.

"I said in my letter, that 'when a *specific* power is granted, Congress is

the judge whether the law passed for the purpose of executing that power is necessary and proper.'

"I never asserted, nor intended to assert, that after the passage of such law it might not be declared unconstitutional by the courts on complaint made by an individual; nor that the judgment of Congress was conclusive against a State, as supposed by you; nor that all the co-ordinate branches of the general Government could together finally decide a question of the reserved rights of a State. The right of each State to judge in the last resort whether its reserved powers had been usurped by the general Government, is too familiar and well settled a principle to admit of discussion.

"As I cannot see, however, after the most respectful consideration of all that you have said, anything to change my conviction that Congress has exercised only a plainly granted specific power in raising its armies by conscription, I cannot share the alarm and concern about State rights which you so evidently feel, but which to me seem quite unfounded.

"I am very respectfully yours,

"JEFFERSON DAVIS.

"Gov. JOSEPH E. BROWN,

"Atlanta, Ga."

"ATLANTA, July 22, 1862.

"HIS EXCELLENCY JEFFERSON DAVIS:

"*Dear Sir* :—I have the honor to acknowledge the receipt of your letter of the 10th inst., and am very happy to know that you disclaim the doctrine which I think every fair-minded man has attributed to you who has read your letter of the 29th May last, and has construed plain English words according to their established meaning.

"When a writer speaks of a tribunal that is to be 'the judge' of a case, without qualification, we certainly understand him to mean that this judge has the right to *decide* the case. And if the judge has this right, the decision must be binding upon all the parties; and no distinct and separate tribunal, as a different department of the Government, for instance, has the right to decide the same case, after it has been decided by the judge having competent jurisdiction. It would seem to be a contradiction in terms to say, that when a specific power is granted, Congress is the judge 'whether the law passed for the purpose of executing that power is necessary and proper,' and that 'the true and only test is to inquire whether the law is intended and calculated to carry out the object, whether it devises and creates an instrumentality for executing the specific power granted; and if the answer be in the affirmative, the law is constitutional;' and then to say, after this test has been applied, and Congress has passed judgment, that another department of the Government, as the President, or the Judiciary, or another government, as a State, may take up the case thus decided by the tribunal having, under the Constitution, complete jurisdiction, and make a different

decision. It is, I believe, an established principle in all civilized nations, that when a court of competent jurisdiction—unless guilty of fraud or mistake—has finally decided a case, the judgment is conclusive upon all the parties.

“But you say you never asserted, nor intended to assert, that the judgment of Congress was conclusive against a State. Pardon me for saying that you did assert that Congress *is the judge*, and that you did not qualify the assertion by saying the judge in the first instance, nor did you annex any other qualification or exception in favor of the rights of a State or any other party. I had no right therefore to suppose that you intended to ingraft exceptions upon a rule which you laid down in the plainest terms without exception.

“I make the above reference to your former letter, to show that I had no disposition to do you injustice, and that I do not consider that I misrepresented your position, as contained in your letter. The thousands of intelligent citizens, in different parts of the Confederacy, who have placed upon your letter the same construction which I had, will doubtless be gratified that you now disclaim the dangerous doctrine as to the power of Congress, to which your strong unqualified language seemed clearly to commit you.

“In reference to the publication by you of the two letters containing part of our correspondence, I need only say that you had devoted a large portion of your letter to a reply to my argument which was before you, and had in the same letter, for the first time, given the arguments by which you maintain your own position. These I had never seen; and as you had replied at length to my argument, it was, I think, but fair and just, according to all rules of discussion, that I have an opportunity to reply to yours, and that the whole case be submitted to the country together. Unless there were important reasons of state which in your judgment made it necessary to place the discussion before the country incomplete, in order to satisfy the discontents which existed in the public mind, on account of what a very large proportion of our people regard as a dangerous usurpation, or unless other good reasons existed for a departure from the usual rule in such cases, I am unable to see why the whole correspondence, when given to the public, should not have gone through the usual official channels.

“I have certainly had no wish to protract the discussion of this question, further than duty, and justice to the people of this State required. I feel that I cannot close, however, without again earnestly inviting your attention to a question which you must admit is ‘practical.’

“I think I have established beyond a doubt, in my former letters, the constitutional right of the State of Georgia to appoint the officers to command the regiments and battalions which she has sent into the service of the Confederate States, in compliance with requisitions made by you upon her Executive for ‘organized bodies,’ of troops. You admitted in your letter that these bodies ‘organized by the States,’ when called forth by the Confederacy

to repel invasion, never came otherwise than with their *company, field, and general officers*. Your former secretary of war, now secretary of state, has also admitted the right of the State to appoint the officers to command the troops sent by her into the service of the Confederacy, under requisition from you.

"You have not thought proper in either of your letters to give any reason why the State should be denied the exercise of this clear constitutional right. In this state of the case you still exercise the appointing power which belongs to the State, and commission the officers who are to command these troops. The laws of this State give to these gallant men the right to elect their own officers, and have them commissioned by the Executive of their own State. This question is of the more practical importance at present, on account of a large number of gallant officers belonging to these regiments having lately fallen upon the battle-field, whose places are to be filled by others. The troops volunteered at the call of the State, with a knowledge of their right to elect those who are to command them, and went into the field with the assurance that they would be permitted to exercise this right. It is now denied them under the Conscription Act. Some of them have appealed to me to see that their rights are protected. As an act of justice to brave men, who by their deeds of valor have rendered their names immortal, and as an act of duty, which as her Executive I owe to the people of this State, I must be pardoned for again demanding for the Georgia State troops, now under your command, permission in all cases in which they have already been deprived of it, or which may hereafter arise, to have the *company, field, and general officers*, who are to command them, appointed by election, and commissioned from the Executive of Georgia, as guaranteed to them by the Constitution of the Confederacy and the laws of this State.

"I make this demand with the greater confidence in view of the past history of your life. I have not the documents before me, but if I mistake not, President Polk, during the war against Mexico, in which you were the colonel of a gallant Mississippi regiment, tendered you the appointment of brigadier-general for distinguished services upon the battle-field, and you declined the appointment upon the ground that the President had no right under the Constitution to appoint a brigadier-general to command the State volunteers then employed in the service of the United States, but that the States, and not the General Government, had the right, under the Constitution, to make such appointments. If Congress could not at that time confer upon the President the right under the Constitution to appoint a brigadier-general to command State troops in the service of the Confederacy, Congress certainly cannot now, under the same constitutional provisions, confer upon the President the right to appoint, not only the *brigadier-generals*, but also all the field and company officers of State troops employed in the service of the Confederacy. May I not reasonably hope that the right for which I contend will be speedily recognized, and that you will give

392 CORRESPONDENCE OF PRESIDENT DAVIS

notice to the Georgia State troops, now under your control, who went into service under requisitions made upon the State by you, that they will no longer be denied the practical benefit resulting from the recognition.

"You conclude your letter by saying, 'you cannot share the alarm and concern about State rights which I so evidently feel.' I regret that you cannot. The views and opinions of the best of men, are, however, influenced more or less by the positions in which they are placed, and the circumstances by which they are surrounded. It is probably not unnatural that those who administer the affairs and dispense the patronage of a confederation of States should become, to some extent, biased in favor of the claims of the Confederacy when its powers are questioned; while it is equally natural that those who administer the affairs of the States, and are responsible for the protection of their rights, should be the first to sound the alarm, in case of encroachments by the Confederacy, which tend to the subversion of the rights of the States. This principle of human nature may be clearly traced in the history of the government of the United States. While that government encroached upon the rights of the States from time to time, and was fast concentrating the whole power in its own hands, it is worthy of remark, that the Federal Executive, exercising the vast powers and dispensing the immense patronage of his position, has seldom, if ever, been able to 'share in the alarm and concern about State rights,' which have on so many occasions been felt by the authorities and people of the respective States.

"With renewed assurances of my high consideration and esteem,

"I am, very respectfully,

"Your obedient servant,

"JOSEPH E. BROWN."

COPY OF A LETTER TO PRESIDENT DAVIS, TO WHICH NO REPLY HAS BEEN RECEIVED.

"CANTON, GA., Oct. 18, 1862.

"HIS EXCELLENCY, JEFFERSON DAVIS:

Dear Sir:—The Act of Congress passed at its late session extending the Conscription Act, unlike its predecessor, of which it is amendatory, gives you power, in certain contingencies, of the happening of which you must be the judge, to suspend its operation, and accept troops from the States under any of the former acts upon that subject. By former acts you were authorized to accept troops from the States organized into companies, battalions and regiments. The Conscription Act of 16th of April last repealed these acts, but the late act revives them when you suspend it.

"For the reasons then given, I entered my protest against the first Conscription Act on account of its unconstitutionality, and refused to permit the enrolment of any State officer, civil or military, who was necessary to the in-

tegrity of the State government. But on account of the emergencies of the country, growing out of the neglect of the Confederate authorities to call upon the States for a sufficient amount of additional force to supply the places of the twelve-months troops, and on account of the repeal of the former laws upon that subject, having, for the time, placed it out of your power to accept troops organized by the States in the constitutional mode, I interposed no active resistance to the enrolment of persons in this State between eighteen and thirty-five, who were not officers necessary to the maintenance of the government of the State.

"The first Conscription Act took from the State only part of her military force. She retained her officers and all her militia between thirty-five and forty-five. Her military organization was neither disbanded nor destroyed. She had permitted a heavy draft to be made upon it, without constitutional authority, rather than her fidelity to our cause should be questioned, or the enemy should gain any advantage growing out of what her authorities might consider unwise councils. But she still retained an organization, subject to the command of her constituted authorities, which she could use for the protection of her public property, the execution of her laws, the repulsion of invasion, or the suppression of servile insurrection which our insidious foe now proclaims to the world that it is his intention to incite, which if done may result in an indiscriminate massacre of helpless women and children.

"At this critical period in our public affairs, when it is absolutely necessary that each State keep an *organization* for home protection, Congress, with your sanction, has extended the Conscription Act to embrace all between thirty-five and forty-five subject to military duty, giving you the power to suspend the act as above stated. If you refuse to exercise this power and are permitted to take all between thirty-five and forty-five as conscripts, you *disband* and *destroy* all military organization in this State, and leave her people utterly powerless to protect their own families, even against their own slaves. Not only so, but you deny to those between thirty-five and forty-five a privilege of electing the officers to command them, to which, under the Constitution of the Confederacy and the laws of this State, they are clearly entitled, which has been allowed to other troops from the State, and was, to a limited extent, allowed even to those between eighteen and thirty-five under the act of 16th April, as that act did allow them thirty days within which to volunteer, under such officers as they might select, who chanced at the time to have commissions from the War Department to raise regiments.

"If you deny this rightful privilege to those between thirty-five and forty-five, and refuse to accept them as *volunteers* with officers selected by them in accordance with the laws of their State, and attempt to compel them to enter the service as *conscripts*, my opinion is, your orders will only be obeyed by many of them when backed by an armed force which they have no power to resist.

"The late act, if I construe it correctly, does not give those between thirty-five and forty-five the privilege under any circumstances of volunteering and forming themselves into regimental organizations, but compels them to enter the present organizations as privates under officers heretofore selected by others, until all the present organizations are filled to their *maximum* number.

"This injustice can only be avoided by the exercise of the power given you to suspend the act, and call upon the States for organized companies, battalions and regiments. I think the history of the past justifies me in saying that the public interest cannot suffer by the adoption of this course. When you made a requisition upon me in the early part of February last, for twelve regiments, I had them all, with a large additional number in the field, subject to your command and ready for service, in about one month. It has now been over six months since the passage of the first Conscription Act, and your officers during that time have not probably enrolled and carried into service from this State conscripts exceeding one-fourth of the number furnished by me as volunteers in one month, while the expense of getting the conscripts into service has probably been four times as much as it cost to get four times the number of volunteers into the field.

"In consideration of these facts I trust you will not hesitate to exercise the power given you by the Act of Congress and make an early requisition (which I earnestly invite) upon the Executive of this State for her just quota of the additional number of troops necessary to be called out to meet the hosts of the invader—the troops to be organized into companies, battalions, and regiments, in accordance with the laws of this State.

"The prompt and patriotic response made by the people of Georgia to every call for volunteers justifies the reasonable expectation that I shall be able to fill your requisition in a short time after it is made and authorizes me in advance to pledge prompt compliance. This can be done, too, when left to the State authorities, in such way as not to disband nor destroy her military organization at home, which must be kept in existence to be used in case of servile insurrection or other pressing necessity.

"If you should object to other new organizations on the ground that they are not efficient, I beg to invite your attention to the conduct of the newly organized regiments of Georgians, and indeed of troops from all the States, upon the plains of Manassas, in the battles before Richmond, upon James Island near Charleston, at Shiloh, at Richmond, Kentucky, and upon every battle-field whenever and wherever they have met the invading forces. If it is said that some of our old regiments are almost decimated, not having more than enough men in a regiment to form a single company, that it is too expensive to keep these small bands in the field as regiments, and that justice to the officers requires that they be filled up by conscripts, I reply, that injustice should never be done to the troops for the purpose of saving a few dollars of expense; and that justice to the men now called into the field as

imperatively requires that they shall have the privilege allowed to other troops to exercise the constitutional right of entering the service under officers selected and appointed as directed by the laws of their own State as it does that officers in service shall not be deprived of their commands when their regiments are worn out or destroyed.

"Our officers have usually exposed themselves in the van of the fight and shared the fate of their men. Hence but few of the original experienced officers who went to the field with our old regiments, which have won so bright a name in history, now survive, but their places have been filled by others appointed in most cases by the President. They have, therefore, no just cause to claim that the right of election which belongs to every Georgian shall be denied to all who are hereafter to enter the service for the purpose of sustaining them in the offices which they now fill.

"If it becomes necessary to disband any regiment on account of its small numbers, let every officer and private be left perfectly free to unite with such new volunteer association as he thinks proper, and in the organization and selection of officers it is but reasonable to suppose that modest merit and experience will not be overlooked.

"The late Act of Congress, if executed in this State, not only does gross injustice to a large class of her citizens, utterly destroys all State military organizations, and encroaches upon the reserved rights of the State, but strikes down her sovereignty at a single blow and tears from her the right arm of strength by which she alone can maintain her existence and protect those most dear to her and most dependent upon her. The representatives of the people will meet in General Assembly on the 6th day of next month, and I feel that I should be recreant to the high trust reposed in me were I to permit the virtual destruction of the Government of the State before they shall have had time to convene, deliberate, and act.

"Referring, in connection with the considerations above mentioned, to our former correspondence, for the reasons which satisfy my mind beyond doubt of the unconstitutionality of the Conscription Acts, and to the fact that a judge in this State, of great ability, in a case regularly brought before him in his judicial capacity, has pronounced the law unconstitutional; and to the further fact that Congress has lately passed an additional Act authorizing you to suspend the privilege of the writ of Habeas Corpus, doubtless with a view of denying to the judiciary in this very case the exercise of its constitutional functions for the protection of personal liberty, I can no longer avoid the responsibility of discharging a duty which I owe to the people of this State by informing you that I cannot permit the enrolment of conscripts under the late Act of Congress entitled 'An Act to amend the Act further to provide for the common defence,' until the General Assembly of this State shall have convened and taken action in the premises.

"The plea of necessity set up for conscription last spring, when I withheld active resistance to a very heavy draft upon the military organization of the

State under the first Conscription Act, cannot be pleaded after the brilliant successes of our gallant armies during the summer and fall campaign which have been achieved by troops who entered the service, not as conscripts, but as volunteers. If more troops are needed to meet coming emergencies, call upon the State and you shall have them as *volunteers* much more rapidly than your enrolling officers can drag *conscripts*, like slaves 'in chains,' to camps of instruction. And who that is not blinded by prejudice or ambition can doubt that they will be much more effective as volunteers than as conscripts? The volunteer enters the service of his own free will. He regards the war as much his own as the Government's war; and is ready, if need be, to offer his life a willing sacrifice upon his country's altar. Hence it is that our *volunteer armies* have been invincible when contending against vastly superior numbers with every advantage which the best equipments and supplies can afford. Not so with the conscript. He may be as ready as any citizen of the State to volunteer if permitted to enjoy the constitutional rights which have been allowed to others in the choice of his officers and associates. But if these are denied him and he is seized like a serf and hurried into an association repulsive to his feelings and placed under officers in whom he has no confidence, he then feels that this is the Government's war, not his; that he is the mere instrument of arbitrary power, and that he is no longer laboring to establish constitutional liberty, but to build up a military despotism for its ultimate but certain overthrow. Georgians will never refuse to volunteer as long as there is an enemy upon our soil and a call for their services. But if I mistake not the signs of the times they will require the Government to respect their plain constitutional rights.

"Surely no just reason exists why you should refuse to accept volunteers when tendered, and insist on replenishing your armies by conscription and coercion of freemen.

"The question then is not whether you shall have Georgia's quota of troops, for they are freely offered—*tendered in advance*—but it is whether you shall accept them when tendered as volunteers, organized as the Constitution and laws direct, or shall, when the decision is left with you, insist on rejecting volunteers and dragging the free citizens of this State into your armies as conscripts. No Act of the Government of the United States prior to the secession of Georgia struck a blow at constitutional liberty so fell as has been stricken by the Conscription Acts. The people of this State had ample cause, however, to justify their separation from the old Government. They acted coolly and deliberately in view of all the responsibilities; and they stand ready to-day to sustain their action at all hazards and to resist submission to the Lincoln Government and the reconstruction of the old Union to the expenditure of their last dollar and the sacrifice of their last life. Having entered into the revolution freemen, they intend to emerge from it freemen. And if I mistake not the character of the sons, judged by the action of their fathers against Federal encroachments under Jackson, Troup,

AND GOV. BROWN UPON CONSCRIPTION. 397

and Gilmer, respectively, as executive officers, they will refuse to yield their sovereignty to usurpation and will require the Government, which is the common agent of all the States, to move within the sphere assigned it by the Constitution.

"Very respectfully, your obedient servant,

"JOSEPH E. BROWN."

CHAPTER XII.

CORRESPONDENCE OF GOVERNOR BROWN AND A. FULLARTON, BRITISH CONSUL AT SAVANNAH.

In July, 1863, Governor Brown, desiring to raise for home defence a force of eight thousand men not in the Confederate army, issued a call for volunteers accompanied by an order for a draft, in the event a sufficient number of men did not respond. This order included all persons between the ages of eighteen and forty-five years, of citizens as well as foreign subjects residing within the State. It drew out from the Hon. A. Fullarton, British consul at Savannah, a strong protest in behalf of those subjects of his government who asked his protection, which led to an able, sharp, and interesting correspondence upon the subject of the liability of foreign subjects to compulsory service, which we present entire.

“BRITISH CONSULATE, }
SAVANNAH, July 22, 1863. }

“TO HIS EXCELLENCY GOV. BROWN, MARIETTA :

“*Sir*:—My attention has been called to your proclamation, and to General Wayne's general order No. 16 attached thereto, ordering a draft on the 4th of August from persons between the ages of eighteen and forty-five years, including British subjects, in each county which does not furnish its quota of volunteers to complete the number of 8,000 men required for home defence.

“I am informed that this force when organized is to be turned over to the Confederate government. British subjects, if drafted, will then be forced to become Confederate soldiers, a position in which Her Majesty's government have, since the commencement of the war, contended they ought not to be placed, and from which Her Majesty's consuls have been instructed to use every means at their command to preserve them.

“Her Majesty's government acknowledges the right of a foreign State to

claim the services of British subjects resident within its limits, for the purpose of maintaining internal order (in other words, to act as a local police force), and even, to a limited extent, to defend against *local invasion by a foreign power* the places of their residence; but they deny the claim to services beyond this, and accordingly I have given advice in the following sense to British subjects who have applied to me on the subject of this draft: that militia duty is in general an obligation incident to foreign residence, and that therefore they must not object to render the service required so long as the law requires a militia organization for the maintenance of internal peace and order. But if it shall so happen that the militia, after being so organized, shall be brought into conflict with the forces of the United States without being turned over to the Confederate States so as to form a component part of its armies, or if it should be so turned over, in either event, the service required would be such as British subjects cannot be expected to perform; in the first case, in addition to the ordinary accidents of war, they would be liable to be treated as rebels and traitors, and not as prisoners of war; and in the second case, they would be under the operation of a law (requiring them to take up arms against the United States government), which had no existence when for commercial purposes they first took up their residence in this country, and would, moreover, be disobeying the order of their legitimate sovereign, which exhorts them to an observance of the strictest neutrality, and subjects them to severe penalties. For all local service, however, short of the service I have endeavored to describe, I have advised them that the militia organization is lawful and should be acquiesced in by resident British subjects.

"Nearly all British subjects have besides taken an oath that they will not, under any circumstances, take part in the contest now raging in this country by taking up arms on either side.

"I hope, sir, you will therefore so modify the general order in respect of British subjects who have certificates from me, as to release them from a position which, in the event of a draft, will certainly render them liable to all the penalties denounced by their own sovereign against a violation of their neutrality, calling upon them at the same time to render service as local police for the maintenance of internal peace and order.

"On a former occasion, Mr. Molyneux advised you that the consulate was placed under my charge during his absence. I recently submitted my authority to act as Her Majesty's consul to Mr. Benjamin, who duly accorded to me his approval and recognition.

"I am, sir, your most obedient servant,

"A. FULLARTON, Acting Consul."

"MARIETTA, August 8, 1863.

"MR. A. FULLARTON, ACTING CONSUL OF GREAT BRITAIN:

"*Dear Sir:*—Your letter of 22d July reached these headquarters during my absence, which has caused delay in my reply.

"Judging from your communication, I am obliged to conclude that you have not correctly understood the objects of the government in organizing the 8,000 men for home defence.

"You admit the right of the State to claim the services of British subjects resident within its limits for the purpose of maintaining 'internal order,' and even to a limited extent to defend the places of their residence against *local invasion by a foreign power*. In view of this correct admission on your part, I do not deem it necessary to quote authority to show the obligation of Her Majesty's subjects to render the service now called for. To maintain 'internal order,' and to defend to a *limited extent* 'against local invasion by a foreign power,' are the sole objects of the proposed military organization.

"While the men are to be mustered into service for the purpose of affording them the rights and privileges of prisoners of war, in case of capture by the enemy, and to enable the government to command them without delay in case of sudden emergency, it is not proposed to take them from their homes, or to interrupt their ordinary avocations, unless it be a case of sudden emergency or pressing necessity, for the defence of their homes, or such localities as command their homes, when in the hands of the enemy.

"The government of the United States, in violation of the usages of civilized warfare, is now resorting to every means within its power to incite servile insurrection in our midst. It is not only stealing our slaves, which are private property, or taking them by open robbery, mustering them into its service, and arming them against us, but it is doing all it can by secret agencies, to stir up and excite the angry passion of the mass of ignorant slaves in the interior, whom it can neither reach by theft nor robbery, to cause them to rise in rebellion against their masters, with whom they are now comfortable and happy, and to set fire to our cities, towns, villages, and other property. It is needless for me to add that in case they should be successful in inciting insurrection to this point, the butchery of helpless women and children will doubtless be the result.

"As a means of accomplishing this object, as well as of destroying public and private property, the enemy is now preparing to send cavalry raids as far as possible into this and other States of the Confederacy. These robber bands will, no doubt, burn and destroy property where they go, carry off as many slaves as they can, and attempt to stir up others with whom they come in contact, to insurrection, robbery, and murder.

"It is not expected that the 8,000 men called for by my proclamation, and the general order to which you refer, will be used against the regular armies of the United States. The provisional armies of the Confederate States have shown themselves fully able to meet the enemy upon an hundred battle-fields,

and to drive them back with severe chastisement, wherever they have not had the advantage of their navy as a support. But it is expected that this home organization, while it may be but little of its time in actual service, will, in case of sudden emergency, assist in repelling the plundering bands of the enemy, which evade contact with our armies, and make predatory incursions to our very homes for the purposes already mentioned, and that they will assist in suppressing any servile insurrections which these plundering parties may be able to incite.

"Many who claim to be Her Majesty's subjects in this State are large slaveholders, whose danger of loss of property and of insult and cruel injury to their wives and children, in case of insurrection, is as great as the danger to the citizens of this State, and their obligation to protect their property and their families against the local aggressions of the United States forces is no less.

"While Her Majesty's government has constantly refused to recognize the existence of the government of the Confederate States, her subjects have enjoyed its protection. And while she refuses to hold any diplomatic relations with us, you, as her representative, are *permitted* to represent her interests here, and to be heard for the protection of her subjects and their property. In this state of things, British subjects who still elect to remain in the Confederacy should not expect to do less than the service now required of them; and while free egress will in no case be denied them, should they desire to depart from this State, less than the service now required will not in future be demanded, in case they choose to remain in the State and enjoy its protection.

"Experience has convinced the government at Washington of its inability, by armed force in the battle-field, to combat Southern valor and compel us to submit to its despotic tyranny. It has, therefore, in connection with that above mentioned, adopted the further policy of destroying agricultural implements, mills, and provisions, wherever its armies penetrate into our country, with a view of effecting by starvation that which it cannot accomplish by the skill and courage of its troops.

"As a further auxiliary to the accomplishment of this object, it drives from the territory overrun by its armies, the men, women and children who are true to the government of their choice, and compels them to seek safety and support in this and other interior States. It thus taxes the productions of the interior States with the support, not only of their own population and the armies of the Confederacy, but of a large number of refugees. With the blessings of Divine Providence, which, thanks to His name, have been so abundantly showered upon us, we are, by abandoning the culture of cotton, making ample supplies for another year. While we are surrounded by such an enemy, the British government cannot fail to see and appreciate the reason why we cannot afford to retain and protect among us a class of consumers who produce none of the necessities of life, and who refuse to take

up arms for interior or local defence, but claim the privilege of remaining as subjects of foreign powers, engaged in commercial pursuits, in ports with which their government recognizes no legal commerce.

"But you insist that there was no law in existence requiring British subjects to take up arms against the United States government, when for commercial purposes they first took up their residence in the country. You must not forget, however, in this connection, that at that time the State of Georgia was by her own sovereign consent, a component part of the government of the United States, and that since that time she has, for just cause, withdrawn her consent to further connection with the aggressive States of the North, and now with her Southern sisters forms the government of the Confederate States, against which the States which remain united under the name of United States, are waging a cruel and unjust war. With this change in the political relations of the country, new obligations are imposed upon the subjects of foreign powers resident within this and other Southern States, which make it their duty to aid in the maintenance of internal order and in the protection of their domiciles and the localities where they are situated, when assailed by the troops of the United States government, or to depart from the States and seek protection elsewhere. Again, the commercial reasons which you say caused Her Majesty's subjects to take up their residence here, ceased to exist when Her Majesty's government refused longer to recognize the existence of legal commerce between her subjects and the citizens of this State and warned them of the loss of her protection if they attempted to carry on commercial relations with us through our ports.

"At the time English subjects took up their residence among our people for commercial purposes, our ports were open to the commerce of the world, and foreign governments which had commercial treaties with us had a right to claim for their subjects engaged in commerce the usual commercial privileges and protection while domiciled here.

"Now the government of the United States claims that it has our ports blockaded; and while the whole civilized world knows that the blockade is not effective, and that vessels enter and clear almost daily at our ports, the government of Her Majesty chooses to recognize it as a legal blockade, and to acquiesce in the paper prohibition which excludes English subjects with their commerce from our ports. If the British government adopts the pretensions of the government of the United States, and holds that Charleston and Savannah are still ports belonging to the United States, it must be admitted that the blockade of these ports by the United States government is a palpable violation of the commercial treaty stipulations between the two governments, as the United States government has no right, under these treaties, to blockade her own ports against English commerce. If tested by the laws of nations, to which the British government is a party, it is no blockade because not effective. Under these circumstances if the government of Her Majesty consents to respect the orders of the United States

government, which forbid British subjects to enter our ports for commercial purposes, that government has no right, while this state of things continues, to claim commercial privileges for its subjects within the ports where it admits the existence of a legal blockade ; but it must expect those subjects to depart from these ports, and if they refuse to do so, it has no just cause of complaint when the government having possession of these ports compels them to take up arms to defend their domiciles against servile insurrection or the attacks of the troops of a hostile power.

"I learn from your letter that 'nearly all British subjects have taken an oath that they will not, under any circumstances, take part in the contest now raging in this country, by taking up arms on either side.' In reply to this, permit me to remind you that no such self-imposed obligation can free the subjects of Her Majesty who choose to remain in this State, from the higher obligation, which, by the laws of nations, they are under to the State for protection while they remain within its limits.

"While I beg to assure you that it is the sincere desire of the government and people of this State, to cultivate the most friendly relations with her Majesty's government and people, I feel it my duty, for the reasons already given, to decline any modification of the order to which you refer in your communication.

"With high consideration and esteem, I am,

"Very respectfully,

"Your obedient servant,

"JOSEPH E. BROWN."

"BRITISH CONSULATE, }
SAVANNAH, AUG. 17, 1863. }

"TO HIS EXCELLENCY GOVERNOR BROWN, MARIETTA :

"Sir:—I have the honor to acknowledge the receipt of your Excellency's letter of the 8th inst.

"I perfectly understood the intentions of the government in organizing the force of 8,000 men for home defence, but I am obliged to conclude that you have misunderstood me when I admitted the right of a State to claim the services of British subjects resident within its limits for the purpose of maintaining internal order, and even to a limited extent, to defend the places of their residence against local invasion by a foreign power. Such service might be rendered by them in the event of a war by a foreign power, but not in a civil war like that which now rages on this continent.

"Her Majesty's government consider that the plainest notions of reason and justice forbid that a foreigner admitted to reside for peaceful purposes in a State forming part of a Federal Union should be compelled by that State to take an active part in hostilities against other States which when he became a resident were members of one and the same Confederacy. While

acknowledging the right of the State, under present circumstances, to the services of British subjects for patrol or police duty, Her Majesty's government object to any further extension of such service. I have consequently, under instructions, felt myself compelled to advise those drafted to acquiesce in the duty until they are required to leave their immediate homes or to meet the United States forces in actual conflict; in that event to throw down their arms and refuse to render a service the performance of which would run directly in the teeth of Her Majesty's proclamation and render them liable to the severe penalties denounced against a violation of the strict neutrality so strongly insisted on in that document, trusting to my interference in their behalf with the Government at Richmond under whose command they will be. In other States, British subjects imprisoned for following this advice, have already been discharged from custody and service by order of the War Department.

"Your Excellency is pleased to inform me that with the change in the political relations of the country new obligations are imposed on the subjects of Her Majesty resident in the South. I do not see why this should be so seeing that they, by reason of their being aliens, had no voice whatever in the councils which brought about the present state of affairs. With regard to the protection afforded by the State to an alien, it appears to me to extend little beyond the safety of life, a guaranty which every civilized community for its own sake extends to every sojourner in its midst. You need not be told that the law of Georgia forbids an alien to hold certain kinds of property; and I cannot see how a thing can be protected which is not suffered to exist. I have nothing to do with British subjects who hold such property in violation of law, but I do protest against the compulsory service in a civil war of those who have never contravened the law in this respect.

"It is satisfactory to know that the option of leaving the country is allowed to British subjects and that no obstacle will be thrown in the way of those who prefer to do so rather than violate the Queen's imperative orders by meeting in warfare the United States forces. If compelled to take this course, however, I may be permitted to say that the comity usually observed between foreign States is not very scrupulously observed.

"I have reason to know that many who have not hitherto been molested, are, in consequence of your Excellency's proclamation, preparing to leave, not a few among them being mechanics worth little or no property, of whose inestimable services, at this crisis, the Confederacy will be deprived. Am I to understand that those already drafted may avail themselves of this alternative?

"The dispatches which I have received from the British government relative to compulsory service are strong. I am instructed to remonstrate in the strongest terms against *all* attempts to force British subjects to take up arms. Should these remonstrances fail, 'the governments in Europe interested in this question will unite in making such representations as will secure to aliens this desired exemption.'

"It has hitherto been in my power to report to Her Majesty's government that her subjects have not been called upon to take up arms in this war. I regret that your Excellency's decision makes it impossible to do so hereafter; the more so as the course pursued contrasts so strongly with the conduct of the United States government, who have conceded the claim of bona fide British subjects to exemption from any military service whatever, and also with that of the Governors of other Southern States who, upon representation, ordered the discharge of British subjects forcibly detained in service.

"I am, sir, your most obedient servant,

"A. FULLARTON, Acting Consul."

"MARIETTA, August 28, 1863.

"MR. A. FULLARTON, ACTING CONSUL OF GREAT BRITAIN:

"*Dear Sir*.—In your letter of the 17th inst. now before me you conclude that I misunderstood you when you admitted the right of the State to claim the services of British subjects resident within its limits to defend, to a limited extent, the places of their residence against local invasion by a foreign power. You are pleased to say that such service might be rendered by them in the event of a war by a 'foreign power,' but not in a *civil* war like that which now rages on this continent. Then you still admit that, by the laws of nations, Her Majesty's subjects resident in this State may be compelled to render the service now required; in other words, to defend the places of their residence against local invasion by a foreign power. And it follows, you being the judge, that the claim now made upon Her Majesty's subjects for service is in accordance with the laws of nations, if the Confederate States, of which Georgia is one, are at war with a foreign power. But in your attempt to escape the just conclusion which results from your admissions you virtually deny that the United States is a foreign power and claim that Georgia is still a component part of the Government of the United States. You have probably been influenced in your persistence in this error by the forbearance of the Government and people of the Confederate States in permitting Her Majesty's consuls to remain among us in the exercise of the functions of a position to which they were originally accredited by the Government of the United States. As it is no part of my purpose to enter into an argument to convince you that the United States is a hostile power *foreign* to Georgia, I will dismiss this part of the controversy with the single remark, that if your pretensions be correct, your appeal for the protection of British subjects resident within this State should have been made to the Government at Washington and not to me.

"You are pleased to inform me that you have felt compelled to advise those drafted to acquiesce in the duty until they are required to leave their immediate homes, or to meet the United States forces in actual conflict—in that event to throw down their arms and refuse to render a service, the per-

formance of which would run directly in the teeth of Her Majesty's proclamation, etc. It is worthy of remark that the language you employ is 'to leave their immediate homes, or to meet the United States forces in actual conflict.' Your advice then to British subjects, if I correctly understand it, is that when the United States forces attack the immediate locality of their homes or their own houses, they are not to defend them as required by the laws of nations against such local invasion, but they are to throw down their arms and refuse to fight for the protection of their domiciles. In reply to this, it is my duty to inform you that I can neither be bound by your pretensions that the United States is not a power foreign to Georgia, nor can I admit the right of Her Majesty by proclamation to change the laws of nations, and insist upon maintaining her subjects here and exempting them from the performance of the duties imposed upon them by the laws of nations. When the troops now drafted have been turned over to the government of the Confederate States to be held in readiness to repel local invasion, if they should, upon the approach of an hostile force, follow your advice and throw down their arms, that government will have the power to pardon for such conduct, or to strike their names from its muster rolls if it chooses to do so; but if an attempt should be made by the enemy upon the immediate locality of their homes, while I control and command the forces to which they are attached, and they should be guilty of conduct so unnatural and unmanly as to throw down their arms and refuse to defend their domiciles, they will be promptly dealt with as citizens of this State would be, should they be guilty of such dishonorable delinquency.

"In another part of your letter you take occasion to say that you do not see why the change in the political relations of this country has imposed new obligations upon the subjects of Her Majesty, as they had no voice in the councils which brought about the present state of affairs. With the same reason you might say that you cannot see why the laws of nations require British subjects in any case to defend their domiciles when located in a foreign country against the local invasion of another foreign power when they had no voice in the councils which formed the government in which they are permitted to reside. I insist that British subjects resident within its limits, though they had no voice in the formation of the new government, owe the same service to it when established which they owed before its formation to the government whose power originally extended over its territory and embraced their homes; and that they are bound to conform their conduct to the new order of things or to seek homes and protection elsewhere.

"But I am informed by your letter that, with regard to the protection afforded by the State to an alien, it appears to you to extend little beyond the safety of life. And as the laws of Georgia forbid an alien to hold certain kinds of property you cannot see how a thing can be protected which is not suffered to exist.

"Upon the first point I need only remind you that our courts are at all

times open to aliens belonging to friendly powers for the redress of their wrongs, and that the same protection is extended to their persons and all the property they legally possess which is enjoyed by citizens of this State.

"I trust a re-examination of the laws of your own country would satisfy your mind upon the other point, as you will there find that the laws of Great Britain forbid an alien to hold 'certain kinds of property,' and it is the boast of that Government that it protects aliens who reside within its jurisdiction. The laws of Great Britain in reference to the right of aliens to hold certain kinds of property while domiciled in that kingdom are certainly not more liberal to the citizens of Georgia than the laws of Georgia are to the subjects of Great Britain.

"While I am unable to perceive the justice of your complaint in the particulars last mentioned, it is gratifying to know that there is no law of nations or of this State which throws any obstructions in the way of the removal of any British subject from the State who is not satisfied with the privileges and protection which he enjoys, you remind me, however, that not a few of them are mechanics, of whose inestimable services at this crisis the Confederacy will be deprived in case of their removals. These mechanics have no doubt remained in this State because they felt it their interest to remain. And in reference to them this State will very cheerfully adopt the rule which generally controls the British government. She will consult her own *interest*, and will exempt from military service for local defence, such mechanics who are aliens as choose to remain and will be more serviceable in that capacity.

"I reply in the affirmative to your inquiry whether aliens already drafted may avail themselves of the alternative of leaving the State in preference to rendering the service. While an alien will not be permitted to evade the service by leaving the State temporarily during the emergency, and then returning, his right to leave permanently when he chooses will not be questioned. I do not insist that an alien shall remain here to serve the State, but I contend that while he chooses to remain under the protection of the State he is bound by the laws of nations and of this State to obey her call to defend his domicile against insurrection or local invasion.

"This, I apprehend, is all that is intended to be claimed by your government in the instructions which you quote. While the British government has a right to demand that its subjects shall not be detained here against their will, and compelled to take up arms on either side, it certainly would not place itself before the world in the false position of insisting on the right of its subjects to remain in another State, contrary to the wish of the government of such State and to be exempt from the service which, by the common consent of nations, such State has a right to demand.

"You conclude your letter by informing me that my decision contrasts strongly with the conduct of the United States government, who have conceded the claim of bona fide British subjects to exemption from any military service whatever.

"As the United States government is the invading party in this war, and can but seldom need the services of British subjects to defend their domiciles, which are scarcely ever subject to invasion, as it has no right under the laws of nations to compel them to bear arms in its invading armies, as it is not in a condition to be compelled to economize its supply of provisions, and as it is reported that it has, by the use of money, drawn large numbers of recruits for its armies from the dominions of Her Majesty, in violation of the laws of her realm, it may well afford to affect a pretended liberality, which costs it neither sacrifice nor inconvenience. But you say that my decision also contrasts strongly 'with that of the Governors of other Southern States, who, upon representation, ordered the discharge of British subjects forcibly detained in service.' In a former part of your letter when speaking of the advice given to British subjects to throw down their arms, in case they should be required to meet the United States forces in actual conflict, you use this sentence: 'In other States British subjects imprisoned for following this advice have already been discharged from custody and service by order of the War Department.' Excuse me for remarking that these two sentences *contrast so strongly* with each other that I am unable to understand why it became necessary for the War Department to interfere and discharge British subjects imprisoned in other States for throwing down their arms and refusing to fight, if the Governors of those States had, upon representation, in all cases ordered the discharge of British subjects forcibly detained in service.

"Trusting that my position is fully understood by you, and that it may not be necessary to protract this discussion, I am, with high consideration and esteem,

"Very respectfully, your ob't serv't,

"JOSEPH E. BROWN."

"BRITISH CONSULATE, }
SAVANNAH, Sept. 12, 1863. }

"TO HIS EXCELLENCY GOVERNOR BROWN, MARIETTA:

"Sir:—In your letter of the 26 ult., your Excellency informed me that aliens already drafted may avail themselves of the alternative of leaving the State in preference to rendering service. I have now the honor, therefore, to request your Excellency to issue orders to your officers to grant J. D. and F. M. Kiely, two drafted subjects, residents of Rome, Ga., leave to quit the State, and permission to remain unmolested in Rome 30 days to settle their affairs in that city.

"I am, sir, your most obedient servant,

"A. FULLARTON, Acting Consul."

"MARIETTA, September 14, 1863.

"MR. A. FULLARTON, ACTING CONSUL OF GREAT BRITAIN:

"*Dear Sir*:—I have the honor to acknowledge the receipt of your communication of the 12th inst., in which you request me to issue orders to the commanding officers to grant J. D. and F. M. Kiely, two drafted British subjects, residents of Rome, Ga., leave to quit the State and to remain unmolested in Rome thirty days to settle their affairs in that city. This permission will be cheerfully granted upon the production to me of sufficient evidence that the persons named are British subjects.

"By an ordinance of the convention of this State, representing her people and her sovereignty, passed on the 16th day of March, 1861, it is declared:

"That all white persons resident in this State at the time of the secession of the State from the United States with the *bona fide* intention of making it the place of their permanent abode, shall be considered as citizens of this State without reference to their place of birth; *provided*, that any person not born in this State can exempt him or herself from the operation of this ordinance by a declaration in any court of record in the State, within three months from this date, that he or she does not wish to be considered a citizen of this State.'

"The ordinance of secession referred to in the above quotation was passed on the 19th day of January, 1861.

"If the Messrs. Kiely were resident in this State on the 19th day of January, 1861, and did not file their declaration in a court of record in this State within three months from the 16th day of March, 1861, that they did not wish to become citizens of this State, they accepted the privileges and obligations of citizenship offered them by the State and ceased to be British subjects, and are consequently not entitled to the leave to quit the State for which you ask under my letter of 26th ult. If, however, they became residents of this State at any time since the 19th day of January, 1861, or, if they were then residents and filed their declaration as required by the ordinance, within three months after the 16th day of March, 1861, they will be allowed the thirty days to arrange their affairs as you request, and permitted to depart from the State at the expiration of that term.

"With high consideration, I am, very respectfully,

"Your obedient servant,

"JOSEPH E. BROWN."

CHAPTER XIII.

RECONSTRUCTION OF GEORGIA.

The surrender of the Confederate armies, and consequently the forces of this State; the arrest and imprisonment of the Governor, and consequent cessation of all civil authority; and the substitution of military government over the State for the time being,—left the people without government or legal protection, except the will of local military commanders and their subalterns.

The President of the United States, Abraham Lincoln, had been assassinated. The Vice-President, Andrew Johnson of Tennessee—a southern Democrat, who had joined our enemies in the struggle—was by that sudden, ill-advised, and unfortunate murder, invested with the executive power of the Union, just as the last, expiring efforts of the remnant of Confederate powers were being made, and as the banners that had waved so often in triumph were being lowered, never to rise again.

President Johnson had been selected from the South, while hostilities were progressing, and given the second office of honor in the Union, as a reward of his fidelity to the Union, and opposition to his own State and to the South, and his supposed power of disintegration and division among our own people. When the executive power was thus suddenly devolved on him, he chose to follow the policy that gave him power, by conferring power and honor on men who had stood opposed to our cause. He selected and appointed as provisional governor of Georgia, Honorable James Johnson of Columbus, Geor-

gia—a man of integrity and ability, thoroughly identified with the President and Congress in the plans of reconstruction, acting under instructions from President Johnson, as proclaimed by him.

He required a convention of the State, of delegates elected by the people. Which body was elected, and met under his proclamation at Milledgeville, on the 28th October, 1865, composed of two hundred and eighty-five delegates, representing the integrity, virtue, intelligence, and patriotism of every part of the State. There were many men of prominence in the State, and some who had been prominent in the Confederate government, and a large number who had held responsible and honorable places in our armies. Many of them have been honored by high civil commissions since.

Honorable Charles J. Jenkins, a justice of the State supreme court for several years past, under the appointment of Governor Brown, a delegate from Richmond county, was proposed as the president of the convention. He declined in favor of Ex-Governor Herschel V. Johnson, a delegate from Jefferson county, who was elected, and presided with great dignity, and after a session of fifteen days, on retiring, delivered to the convention an address abounding in wisdom, prudence, and patriotism, which was extensively published with good effect upon the people.

Mr. Jenkins was made chairman of a committee of sixteen, to report business for the convention; and on the succeeding day reported—and which was unanimously adopted:

AN ORDINANCE

“To repeal certain ordinances and resolutions therein mentioned, heretofore passed by the people of the State of Georgia in convention.

“*We, the People of the State of Georgia in Convention, at our seat of Government, do declare and ordain, That an ordinance adopted by the same*

people, in convention, on the nineteenth day of January, A. D. eighteen hundred and sixty-one, entitled 'An ordinance to dissolve the union between the State of Georgia and other States united with her under a compact of government entitled "the constitution of the United States of America"'; also an ordinance, adopted by the same on the sixteenth day of March in the year last aforesaid, entitled 'An ordinance to adopt and ratify the constitution of the Confederate States of America'; and also all ordinances and resolutions of the same, adopted between the sixteenth day of January and the twenty-fourth day of March, in the year aforesaid, subversive of, or antagonistic to, the civil and military authority of the government of the United States of America, under the constitution thereof, be, and the same are hereby repealed."

He also reported from day to day the constitution of the State, as its parts were framed and agreed on by the committee, made to conform to the new state of affairs, embodying in the main the old constitution, which was adopted, but which, as will appear, was superseded by another State constitution in 1868.

This convention adopted many ordinances suited to the emergencies.

There was one which gave the courts employment for several years:—

AN ORDINANCE

"To make valid private contracts entered into and executed during the war against the United States, and to authorize the courts of this State to adjust the equities between parties to contracts made but not executed, and to authorize settlements of such contracts by persons acting in a fiduciary character."

Another, which swept away at a single stroke a large portion of the remnant of many private fortunes:

AN ORDINANCE

"To render null and void all debts of this State created for the purpose of carrying on the late war against the United States.

"*Be it ordained by the people of Georgia, in convention assembled, That all debts contracted or incurred by the State of Georgia, either as a separate State, or as a member of the late partnership or confederacy of States, styled the Confederate States of America, for the purpose of carrying on the late*

war of secession against the United States of America, or for the purpose of aiding, abetting, or promoting said war in any way, directly or indirectly, be, and the same are hereby declared null and void; and the Legislature is hereby prohibited forever from, in any way, acknowledging or paying said debts, or any part thereof, or from passing any law for that purpose, or to secure or provide for the said debts, or any part thereof, by any appropriation of money, property, stocks, funds, or assets of any kind to that object."

The debt of the State when the war began was \$2,667,-750. This had been increased \$18,135,775, during the existence of the war; which sum was rendered null and void by this ordinance, consisting in the currency and bonds of the State issued by her authority, and in which a large amount of anti-war securities had been invested:

This course, however, seemed an absolute necessity on the part of the convention. Provisional Governor Johnson had strongly urged it in his message; and in order to put the terms of reconstruction beyond debate upon this point, he communicated the telegrams from Washington as follows:—

"WASHINGTON, October 28.

"TO HIS EXCELLENCY JAMES E. JOHNSON:

"Your several telegrams have been received. The President of the United States cannot recognize the people of any State as having resumed the relations of loyalty to the Union that admits, as legal obligations, contracts or debts created on them to promote the war of the rebellion.

(Signed)

"WILLIAM H. SEWARD.

"Received at Milledgeville, October 29, 1865, by telegraph from Washington, 28th."

"TO GOVERNOR JOHNSON:

"Your dispatch has been received. The people of Georgia should not hesitate one single moment repudiating every single dollar of debt created for the purpose of aiding the rebellion against the government of the United States. It will not do to levy and collect taxes from a State and people that are loyal and in the Union, to pay a debt that was created to aid in taking them out, thereby subverting the Constitution of the United States. I do not believe the great mass of the people of the State of Georgia, when left uninfluenced, will ever submit to the payment of a debt which was the main

cause of bringing on their past and present suffering, the result of the rebellion. They who vested their capital in creation of this debt must meet their fate, and take it as one of the inevitable results of the rebellion, though it may seem hard to them. It should at once be made known at home and abroad, that no debt contracted for the purpose of dissolving the union of the States, can or will be paid by taxes levied on the people for such purposes."

(Signed)

"ANDREW JOHNSON,
"President U. S."

By which it appears, that whatever legal or moral objections the representatives of the people had to the repudiation of the State's war debt, in their subjugated condition, they had no choice in the matter.

The convention incorporated in the constitution of the State the following clause, which explains itself, upon the subject of

THE ABOLITION OF SLAVERY.

"20. The Government of the United States having, as a war measure, proclaimed all slaves held or owned in this State, emancipated from slavery, and having carried that proclamation into full practical effect, there shall henceforth be, within the State of Georgia, neither slavery nor involuntary servitude, save as a punishment for crime, after legal conviction thereof; *Provided*, this acquiescence in the action of the Government of the United States is not intended to operate as a relinquishment, waiver, or estoppel of such claim for compensation of loss sustained by reason of the emancipation of his slaves, as any citizen of Georgia may hereafter make upon the justice and magnanimity of that Government."

At the time this constitution was framed, with the above clause in it, the idea of African slavery in this country was a thing of the past. The freedom of the black race had been proclaimed by the military authority on the surrender of the Confederate armies, and the occupation of the country by Federal officers, supported by Federal troops and guards; and for a period of five or six months all the slaves of the State had been in a

state of actual freedom. No slave-owner pretended to exercise or claim any authority over his former slaves, except such as employer had over employee. It is a noteworthy fact that in very many cases the freed negroes did not feel satisfied to remain, for wages, with their former masters; but, as an act of freedom, they seemed to prefer to contract with and hire themselves to other persons than their former owners, and to transfer the lifelong allegiance, subservience, obedience, and confidence to and in their old masters, to Federal officers and agents; which allegiance and confidence were necessarily of short duration.

At an election under the provisions of this constitution Hon. Charles J. Jenkins was elected governor without opposition, and a Legislature chosen, which assembled on the 4th of December, at Milledgeville, under the auspices of Provisional Governor Johnson. This legislative body was composed, like the convention had been, of the good and true men of the State, who were the representatives of the white race.

The retiring provisional Governor in his message submitted the 13th Constitutional Amendment formally prohibiting slavery then already abolished by military power, and later by the State Constitutional Convention elected by only white voters. The General Assembly ratified the Amendment.

The provisional Governor continued to exercise the duties of governor for several days, notwithstanding, under his authority and direction, the people had elected a governor, members of the Legislature, and representatives in Congress.

On the 12th of December the provisional Governor made to the Legislature the following communication,

which is here recorded, as a relic of those extraordinary times :

“EXECUTIVE OFFICE, }
MILLEDGEVILLE, GA., Dec. 12, 1865. }

“Gentlemen of the Senate and House of Representatives :

“I received this morning a telegram from His Excellency, the President of the United States, a copy of which is herewith transmitted.

“J. JOHNSON,
“Governor.”

[COPY TELEGRAM.]

“WASHINGTON, D. C., }
DECEMBER 11, 1865. }

“J. JOHNSON, PROVISIONAL GOVERNOR :

“The Governor elect will be inaugurated, which will not interfere with you as Provisional Governor. You will receive instructions in a few days in regard to being relieved as Provisional Governor.

“Why can't you be elected as Senator? I would issue no commissions for members of Congress. Leave that for the incoming Governor.

“We are under many obligations to you for the noble, efficient and patriotic manner in which you have discharged the duties of Provisional Governor, and will be sustained by the Government.

(Signed)

“ANDREW JOHNSON,
“President U. S.”

On the 14th of December Mr. Jenkins was inaugurated, and entered on the duties of his office with the full confidence of the people of all the former political parties, now united in a common purpose of political reunion and restoration, and the recuperation of the State and people from the waste and desolation of war. His inaugural address is characteristic of the great good man, who had opposed secession, and, in fidelity to his State and section, yielded, like many others, a hearty co-operation in the now lost cause of Southern independence. It contained a thorough and truthful presentation of the situation of this State, and of her relations to the Government and her constitutional obligations, exerting

everywhere a powerful influence upon the minds of the Southern people.

This General Assembly elected Hon. Alexander H. Stephens, late vice-president of the Confederate States, and Hon. Herschel V. Johnson, late Confederate States senator, as United States senators for Georgia. But the senators, like the representatives elected by the people, failed to obtain seats in Congress.

In consequence of ill-natured as well as unfounded criticisms and rumors of speculation, peculation, fraud, and mismanagement of the State's finances and the public property and assets during the war, the Constitutional Convention of the State, assembled under the authority of James Johnson, provisional governor of Georgia, on the 25th of October, 1865, recommended him to appoint a special committee to make a "thorough examination and investigation of the financial operations of the State, from 1st January, 1861, to that time, and report the result of such investigation to the Legislature."

That committee was composed of Hon. Thos. P. Saffold, Hon. Chas. S. Jordan, Jr., and Hon. O. H. Lochrane, who made their report February 22, 1866, to Gov. Jenkins—who had been elected and installed—and to the Legislature, embodying all the evidence elicited in three months of patient and persistent effort to bring to light everything that had been pointed to or suggested as a foundation for the matters in hand.

The committee published notice of their session in all the journals of the State, inviting all persons to come forward and give evidence who knew anything to support the charges or insinuations, and sent for and examined all the persons in reach who had been referred to for the verification of the suspicions. The committee say:—

"We have invited every one who knew anything that would throw light upon the investigation, to come and tell it; written letters to individuals who were said to be in possession of facts; sifted testimony, and examined the books, accounts, and vouchers of public agents and officials, as well as their private affairs,—and feel assured an examination of evidence on file in the executive office and the exhibits hereto attached will fully sustain the conclusions at which we have arrived."

A tabular statement annexed accounts for every bale of cotton purchased, and shows what went with it.

The committee say:—

"Our conclusion is, after the most rigid scrutiny into the public and private affairs of these officers, from Governor Brown down, that no one of these rumors has been sustained by the slightest proof. Instead of fortunes having been made by them, we have found them generally poorer than when they went into office.

"In relation to the financial operations of the commissary-general, Col. Jared I. Whitaker, we report, after examining his statements as to his acts, official and private, we found his report to the Legislature heretofore made to be strictly accurate. He accounts for every dollar received by him; and by his final report attached, marked A and B, exhibits a fidelity and accuracy which met our commendation. The fullest investigation renders it just to him, as he has been assailed, to say that we feel confident no man could have been selected who would have discharged the trusts of his office more ably and faithfully.

"In the examination of books and vouchers of the quartermaster-general, Col. Ira R. Foster, we found that he had fully accounted for the moneys received by him;

that his duties were performed with great zeal and industry; and his report up to date hereto attached, marked C, exhibits the accuracy with which his accounts with the State were kept."

Public criticisms were freely indulged to the effect that the Governor had been a partner with E. Waitzfelder & Co. in blockade running, and in the Milledgeville Manufacturing Company, and had used public funds in private speculations. Upon these and similar groundless charges the committee subjected him to a rigid examination. His answer as then recorded and published, and to which, after a period of fourteen years and through the mutations of parties and the heat of antagonism, no one has ever published or otherwise uttered a contradiction, states:—

That he was never a public or private partner of the firm of E. Waitzfelder & Co.; that he did not now own and never did at any time own a dollar of the stock of the Milledgeville Manufacturing Co.; that he had used no funds belonging to the State in his private transactions, and that he knew of no such use of the State funds by any officer of the State; that he had purchased the two plantations which he owned in southwest Georgia and paid for them in Confederate money when the depreciation was very great upon it; that the Confederate notes he gave for them cost him but a few thousand dollars in gold assets; that part of these assets he inherited in right of his wife and children from the estate of his father-in-law of which he was executor, and part he had in railroad bonds when the war began; that he invested in land because he thought it safest; that a large portion of what he now owned was in land and his city property in Atlanta.

As much had been said about the large fortune he

had made during the war, he would state that he would now take in gold, first deducting his indebtedness, ten thousand dollars less for all he possessed when the war ended than his estate, including assets in his hands as executor, which belonged to him in right of his wife and to his children, was worth the first year of the war.

In view of the official positions held by the Governor and his subordinates representing the integrity of the State in her public administration, these matters are regarded of sufficient moment to be thus published, not only as a vindication of the State and these men who retired to pursue their avocations, but to give full opportunity to all who may cherish malice against any of them to make such assaults against them while in life as they ever intend to make as to any such matters.

The period of reconstruction tested the firmness as well as judgment of men in position to control public opinion and give direction to public action. Prior to the war, in the face of aggression, insult, injury, and threatened war and subjugation, Joseph E. Brown, Governor of this State, favored most of the means proposed to arrest aggression, and in the last resort secession and its terrible consequences of war as an alternative to submission and the overthrow of the constitutional theory of republican government. Governor Jenkins, a man of cool judgment and large experience, then in private life, while he deprecated the injuries and loathed the spirit of Northern aggressions, was steadily opposed to secession, and favored the preservation of the Union.

Now, occupying the office of Governor by the unanimous suffrage of the white people of a great but conquered State, he was inflexibly opposed to the ratification by the Legislature of the 14th Constitutional Amendment,

making all persons born or naturalized in the United States, and subject to the jurisdiction thereof, citizens of the United States and of the State in which they reside; apportioning representatives among the States according to numbers; imposing disabilities as to holding office on all who had held office and taken the oath to support the Constitution of the United States and afterwards engaged in the rebellion; declaring the validity of the public debt of the United States, and prohibiting the United States or any State from assuming or paying any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, declaring all such debts, obligations, and claims illegal and void; and authorizing Congress to enforce the provisions of the amendment by appropriate legislation.

Analyzing this amendment in his message in his usual able and elegant style, he concludes as follows:—

“I ask you to consider, however, why it is that you are called upon to vote upon its adoption, whilst your State had no voice in its preparation. The Constitution secures to the States the one right as distinctly and as positively as the other. Had your Representatives, and those of other States similarly situated, been present, aiding in giving substance and form to it, possibly it might have come before you a less odious thing. The policy seems to have been, *first* to push it, without their participation, beyond the stage of amendment, and then say to them, accept our bantling or take the consequences. The omission of any material part of the process of amendment makes the amendment itself *unconstitutional, null, and void*.

“Should the States especially to be affected by this amendment refuse their assent to it, it cannot be adopted without excluding them from the count and placing its ratification upon the votes of three-fourths of the now dominant States.

“It is said, however, that unless this concession be made, the now excluded States will be kept out of the halls of Congress indefinitely. Were the amendment presented with such a menace distinctly expressed, a higher motive (if possible) than any hitherto suggested would prompt its rejection.

“At the termination of hostilities it was right and proper that the pre-

viously resisting States should, in the most unequivocal and formal manner, abandon such resistance—should rescind all they had done in antagonism to, and do whatever was necessary and proper to place themselves in constitutional relation with, that Government. All this, we believe, Georgia has done. Beyond this, in acting upon any proposed change in the fundamental law, even in this critical juncture, my advice is that her legislators act with the same intelligent judgment and the same unflinching firmness that they would have exercised in the past, or would exercise in the future, when in full connection and unambiguous position. Any other rule of action may involve sacrifices of interest and of principle which magnanimity would not exact and self-respect could not make.

“To submit to injurious changes in the Constitution, when forced upon a State, according to the forms prescribed for its amendment, would be one thing; to participate in making them, under duress, against her sense of right and justice, would be a very different thing. The difference, in principle, is as broad as that which distinguishes martyrdom from suicide. Far better calmly await a returning sense of justice, and a consequent reflux of the tide now running strongly against us.”

This message was a reflex of the judgment and feeling of a very large majority at that time of the white people of this State.

The subject underwent a critical examination by an able joint committee of the Senate and House on the state of the Republic, who made an exhaustive argument in reporting against the amendment, which was rejected by an almost unanimous vote.

Then the difficulties, complications, and delays of reconstruction began to be seen and realized by the people, who felt and believed they had a right to a voice in the establishment of the terms and conditions of their restoration to the Union; and that the United States, in the legislative, executive, and judicial departments, were bound by all constitutional checks and prohibitions; and that the people of the conquered States were by the terms of the surrender reinvested with all the rights, privileges, and immunities to which, as citizens of the State and of the United States, they were entitled before

secession, war, and subjugation took place. This doctrine was in accordance with the public sense of justice and right, in harmony with public passion and pride in having surrendered to the Government, and given up slaves, repudiated their war debt, and unconditionally acknowledged allegiance to the Union. In their subjugated state, mortified by defeat, exasperated by the exercise of military power in lieu of civil government, they were ready to heed the advice and counsel of the statesmen and the leading news and political journals, which fixed limits and bounds to the exercise of power, and which sought to enforce the guaranties of civil organic law. The intelligent people of the conquered South viewed themselves from a different standpoint and measured their rights by a different standard—from the standpoint and standard of the leading minds of the Government whose dominion and power had been re-asserted over them. The people here regarded the restoration of Federal power, and the submission and obedience and loyalty of the States lately at war with the Government, as the full and complete consummation of all the objects and aims of the war; and considered that the Government should demand no more, and that the constitutional rights of the States and people of the South should be regarded and protected as a matter of right on their part, and of duty on the part of the Government. They were not prepared in judgment or sentiment to realize the wisdom or the policy, on the part of the United States, in changing the organic law of the Union so as to invest the liberated black race with full legal, political, and civil rights and immunities as a sequence of emancipation, and in the enactment of laws to enforce those alleged rights. And whosoever advised in accordance

with the well-defined public opinion and sentiment had the ear and the approval of the people ; and, as a natural sequence, whosoever advised the contrary had the disfavor and negative of the great majority of people, and if he were a Southern man he incurred more or less of public odium and denunciation.

Most of the old leaders of parties in this State, whether they had originally favored secession or opposed it as a remedy for acknowledged wrongs, and the men of the State who had become prominent in the civil department, and those whom military career had made prominent and influential, were open in opposition to the proposed organic changes in the government, and to accepting voluntarily the new order of things so far as were necessarily the results of these changes.

Some who had opposed secession, such as Governor Jenkins, Herschel V. Johnson, Mr. Benj. H. Hill, and Mr. Stephens, sympathized in this prevailing sentiment and openly avowed their opposition, and cordially co-operated in this opposition with General Toombs, General Cobb, and most of the old and new leaders of the State.

On the contrary, a few who had opposed secession favored accepting the terms of reunion and reconstruction offered by the General Government. And a few who had favored the policy, and advocated the principles and opinions that led to secession, advocated prompt separation and the united effort to establish Southern independence, and used all their powers and energies to maintain the military and civil authority of the Confederate Government, now that the cause had finally and hopelessly failed,—the new Confederacy being effectually overthrown, its forces disarmed and scattered, and the power and authority of the United States fully established over

and recognized and obeyed by the whole Southern people who had been at war with the Federal Government, and all fully recognizing themselves as a conquered people,—as a matter not of right and justice abstractly considered, or as a voluntary choice, but of wisdom and prudence, and as the speediest and safest method of securing peace to the people and protection to life, liberty, property, and to the civil and legal rights and amenities of the people in their diversified and numerous forms and relations, favored the prompt and unconditional acceptance of all the positive and imperative terms dictated by the conquering power. The proposed amendments and their legal and logical sequences, which the conquered States had no power to resist, were among those terms, and, for the reasons stated, their ratification by the State was openly urged upon the people.

Conspicuous and prominent among this few was the displaced governor of Georgia, Joseph E. Brown, upon whose head the vials of wrath from his former foes and friends, with only a few exceptions, and from almost the whole political press of the South, were poured out with relentless fury.

His star had been of the first magnitude in the political firmament, respected for its brilliancy and power even by the political foes who did not profess to walk by its light. But now, from thousands of lips, and the teeming columns of the conquered, resentful, and still rebellious press, the tidings and accusations were sent forth, were echoed and reverberated from hill to dale, and from mountain to seaboard, that “Joe Brown,” to save his own neck from the hangman’s halter for his alleged treason in resisting Federal authority and seizing the arsenal and forts prior to secession and while Georgia acknowledged allegiance to

the Union, and to save his own property from confiscation, had turned his back upon his own country, betrayed the people that had honored and raised him to influence and official power, whom he had aided in leading into secession, war, and to its direful and disastrous consequences; and now, to save himself and protect his own accumulations, he had joined our enemies and made common cause with them, in perfecting and completing our humiliation and dishonor.

It is necessary to have lived in those times to realize the magic power and widespread influence of such passionate and unfounded clamor, and their effect upon the popular mind and heart, and the accumulated weight of public odium that gathered around the name and character of Georgia's formerly honored and idolized chief. His name, so potent and magical up to this terrible test of his fidelity to his own accusing people, became a synonym of perfidy, treachery, and selfishness, and was everywhere cast out as evil; in many circles the public cruelty extended to social proscription.

But, true to an inherited and cultivated firmness and to a higher and broader comprehension of the situation of the Southern States in their subjugated condition than the passions of the times allowed to most of our late leaders, he withstood it all with composure, and determined to abide the judgment of later times, while through the press, in private circles and addresses, he made public his convictions of what was wisest and safest for the people, and vainly urged his advice upon them.

A critical examination lately made of the published letters and addresses of the then deposed and despised popular leader furnishes the authority to state his precise position. He regarded the cherished Democratic and Jef-

personian doctrine of State rights and State sovereignty, and the consequent asserted right of secession of States for causes to be judged of by their people, as completely overthrown ; that the disputed right of coercion and subjugation claimed by the United States government over revolting and seceding States held by that government to be in rebellion was fully established and maintained by military power, then fully and effectually asserted over this State ; that the State was without power, and hopeless as to all means of enforcing a negative, or dictating terms of restoration to and reunion with the United States from which we had separated.

Having made war for four years, when we had an organized Confederate government, and governments in all the States composing the Confederacy, when they had the means to carry it on ; and having failed, the Confederate government being completely overthrown, its armies all disbanded, and the disarmed citizen soldiers that composed them all having returned to their homes ; and the general government having proclaimed that the State was without civil government, and substituted for the time being the authority of the military over the people,—he believed, and so advised, that it was the duty of the people to accept, voluntarily, the terms which he avowed would be enforced as conditions precedent to the restoration of civil State government, and re-admission as a State in the Federal Union.

He also protested as ardently, in the presence of the military and in the face of Republican domination, against all proposals to go beyond the actual requirements of the conquering power, as made known through the acts of Congress and official orders and proclamations. He vehemently opposed the State taking any voluntary step

calculated to degrade or humiliate the white population, not actually dictated and required by the government whose authority we had all sworn in the oaths of amnesty to obey.

These are the opinions, and such were the counsel and advice of the ex-Governor, that brought him face to face with his own people and former constituents, and invoked their hostility and open denunciations upon him.

In October, 1879, in consequence of assaults made on the floor of the Legislature upon the character and conduct of Governor Brown in those days,—and which were also repeated through the press,—he was called out to vindicate himself. And as pertinent to the matters and subject now before us, the author quotes here his own language to the public. Referring to the days of 1868, he says:—

“That was a period of unprecedented bitterness, madness, and vituperation. It was just after the war, at a time when the people of the State felt they had not only lost all, but that the terms dictated by the conqueror were harsh and rigorous. Prominent politicians who were disqualified to hold office under the reconstruction legislation of Congress, and under the fourteenth amendment which we were required to adopt, were very bitter and denunciatory, and they fired the passions and worst feelings of the people up to a high point.

“It was easy then to float with the current. My opinion was, however, that it was the time of all others, when patriots and good citizens should meet the issue calmly and coolly, dismiss passion, and be controlled entirely by the dictates of their judgment. Taking this view of the situation, and feeling that I owed the people of Georgia a debt of gratitude that I could never pay, for the honors and confidence they had bestowed upon me, I looked carefully into the situation, and whilst every prompting of my nature and of my passions was in the direction of the popular current, my judgment told me it was bad policy and would terminate disastrously to pursue that course.

“I was fully convinced that further resistance to the will of the conqueror would be worse than folly. I knew the Northern mind was inflamed against us, and that the party which had favored the war from the commencement and had come out of it triumphant was obliged for years to control popular

sentiment there. I was, therefore, satisfied the best thing we could do was to agree with the adversary quickly, to take the first terms they offered us, and close with them and get our representatives back into Congress at the earliest date possible, and our State again recognized as a member of the family of States of the Union. I was satisfied if we made no resistance to the right of the negroes to vote, and made no issue with them upon that subject, we could retain their confidence and carry a majority of them with us, in spite of all the influence of all the carpet-baggers that could come among them. But I was equally well satisfied, if we made war upon the acts of Congress which gave them the right to vote, it would be a war in which we would ultimately be vanquished; and the very fact that we made the issue would put them under the control of the carpet-baggers who came among us, and who represented themselves to the colored people as being their friends sent here to see that these rights were secured.

"I also predicted at the time, in my public speeches which are now of record, that the time would come in less than fifteen years, when the New England States would regret that they had given suffrage to the negro; and when the Southern people, on account of the power which the negro vote gave us in Congress, would resist any effort to take from the colored people the suffrage already given them. Under the 14th Amendment, if the State were to permit none of the colored race to vote, she could count none of them in her representative population. The Southern States, therefore, have some thirty members of Congress and thirty votes in the electoral college which they would not have if they had denied to the colored race the right to vote. The Northern radicals saw this in the results of the late presidential election, and many of them have since cried out against unqualified negro suffrage. What Southern man would now yield that right, thereby losing the power which we have in Congress and in the electoral college, and which we would not have if the race were disfranchised?

"But this is not all. At the time I took position for acquiescence in the reconstruction acts, no 15th Amendment had been put upon us, as part of the terms of re-admission into Congress; nor was it done until a number of the States of the South had rejected the 14th Amendment. I predicted at the outset, if we did not accept the terms then offered to us, harder terms would be imposed, and we would be compelled to accept them. After we had rejected the 14th Amendment, the fifteenth, which guaranteed the right of the negro to vote, was proposed and made part of the terms; and we were informed we would not be re-admitted till we complied with this additional requirement. And we had to comply before we were re-admitted.

"What has been the result? Those gentlemen in the South who were then the leaders of popular sentiment, and who opposed the reconstruction measures to the bitter end, until they had been agreed to by the Southern States, have since become prominent in Federal politics; and, notwithstanding their denunciations of the 14th and 15th amendments, and their predic-

tions that they would never be enforced, they have since that time again and again sworn to support the Constitution with these amendments incorporated in it. And the national Democratic convention which met at St. Louis incorporated a plank into its platform declaring its devotion to the Constitution with these amendments.

"As my enemies, through the agency of their instrument, have thought proper to wake up the old issue, and again call in question the propriety and wisdom of my conduct in the course I took upon reconstruction, I think it not improper that I should call to mind these facts, and ask the people, who gave the wiser advice on that occasion. Was I right when I told the people we would be obliged to submit to these terms? What advantage did South Carolina, Louisiana, and Florida, whose people refused to go to the polls, or have anything to do with the conventions that formed their constitution under the reconstruction acts, gain by the hands-off policy? They were advised by their leaders to touch not, taste not, handle not the unclean thing, to have nothing to do with it, but to give the matter up into the hands of the negroes, carpet-baggers, and scalawags. The people followed the advice of their leaders, and the governments of those States were put into the hands of the classes above mentioned. They formed the constitution to suit themselves; and the world knows the result.

"On the other hand, the white people of Georgia were divided upon this question. Some thirty or forty thousand of them who agreed with me, thinking it better to have a hand in making the constitution they were to live under, went to the polls and elected some of our best and ablest men, who were not ineligible to represent them in the convention. The result was, we got a constitution which soon placed the State under the permanent control of the white race, where we have not had any inconvenience from the position the negroes have occupied in the jury box,—in a word, a constitution under which the intelligence and virtue of the State soon asserted their supremacy; and our leading position is not only recognized but envied by the Southern sisterhood of States. But for the course of the constituency I have just mentioned, and of the self-sacrificing heroic men who went into the convention, and who watched around it, with the curses of a large proportion of the white people against them, who had the nerve to breast the storm and do right, we would have been in as deplorable a condition as our three Southern sisters above mentioned. I leave it therefore for the honest, fair-minded men of this generation, and for impartial history in the future, to say whether the course I took and the advice I gave during that great struggle was the wisest and best that the circumstances permitted. I am willing to stand or fall by the record; and my enemies who have provoked this assault are welcome to make the most of it.

"Immediately after the reconstruction acts had passed, if the whole South had accepted the situation and supported General Grant for President in 1868, we would have been promptly re-admitted to Congress, our State gov-

ernments would have been left in our own hands, political disabilities would have been removed, and we should have had no carpet-bag rule. This would have thrown together in the Republican party, as the result of the war, elements not congenial on questions of banks, currency, tariffs, etc., and before this time a split would naturally have taken place on those issues. And as there would have been no bloody shirt waved, large numbers of Northern men, who now act with the Republican party, who were originally War Democrats, would naturally have drifted back to their old position, which has been prevented by the position of the South on the reconstruction issues.

"Entertaining these views, I did not support the Seymour movement on the insane platform of 1868. But I then voted for General Grant as a measure of policy, as the Democratic party did for Greeley in 1872. The difficulty was, however, that the party did not adopt the proper line of policy by giving their support to a Republican till four years after the opportunity had passed. That which would have been wise and judicious in 1868, and would have secured our immediate return to our proper position in Congress, was of no benefit in 1872, because the times had changed and the opportunity was gone. The mischief had already been done. Had the whole South moved on that line in 1868, the result would have been that the Democracy, designated by their old name or by some other watchword, would before this time have been in complete control of the government."

In the numerous published speeches and letters advocating the acceptance by Georgia of the reconstruction proposed and at last enforced by Congress, and the advice given the Republicans in the State, his address to the Constitutional Convention, and his addresses advocating the adoption of the Constitution after it had been framed and submitted to the people, and in advocating the election of General Grant for the presidency,—the spirit, the opinions, and advice indicated in the foregoing extract abound. And, as stated, the hated and denounced ex-Governor, while he advocated going the length demanded by the Government, protested continually against going one step beyond it.

Congress promptly proceeded with the work of reconstruction. The act of March 2, 1867, declared that no legal State governments, or adequate protection to life

or property, existed in the States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Florida, Texas, and Arkansas; divided them into military districts; authorized the President to assign a military commander to each district, and to detail a sufficient military force to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the peace and criminals, giving the commanders the discretion to allow the local tribunals to try offenders, or organize a military commission to try them.

The law also provided that when the people of any of those States should form a constitution in conformity in all respects to the Constitution of the United States, framed by a convention of delegates elected by the male citizens thereof twenty-one years of age, without distinction of race, color, or previous condition of servitude, except those disfranchised for participation in the Rebellion, or for felony at common law,—the constitution of the State so formed to provide that the elective franchise should be enjoyed by all such persons as are authorized by the act to vote for delegates, and to be submitted to, examined, and approved by Congress,—and when a legislature elected under such constitution should ratify the 14th Amendment, and that Amendment become a part of the Constitution of the United States, then that State should be entitled to representation in Congress. The law declared all civil law provisional only in those States until they should comply with its requirements.

Governor Jenkins was by military order of Major-General John Pope removed from office, and Brig.-General Ruger of the United States army placed in power. Gen. Pope himself was afterward succeeded by Major-General

Meade, and he by Major-General Terry, of the United States army, in the command of Georgia.

The States referred to in the act failing to take steps to hold the convention and to comply with its terms, Congress proceeded with the work of reconstruction. A supplemental bill was passed providing for the election of delegates to conventions, for the purposes indicated, under the direction and authority of the military commanders in charge; providing rigid rules under oath for registration, and excluding all as voters who by the provisions of the proposed 14th Amendment were proscribed from holding office. The freed blacks without exception, except felony at common law, were enfranchised, as were the white people who were voters under existing laws, except as stated.

This proscription debarred a very large number, embracing most of the leading and prominent men of the State, from the right to register and vote in the election for or against convention, and for delegates to represent them, — they having held offices before the war, and taken the usual oath to support the Constitution of the United States, and afterward engaged in the Rebellion, as the war for Confederate independence was denominated by law and in all official public orders.

The colored people with great unanimity and enthusiasm registered, and crowded to the voting places at the elections. The question as to the assembling of the convention was made to depend on the votes of those entitled when voting for delegates. In case a majority were indorsed for a convention, then the military commander was required to assemble the body; but in case there was not a majority of those voting on that question indorsed for convention, then it was not to be held, and the military authority over the State was to continue.

The registration was conducted by officers appointed under the acts for the reconstruction—many of them negroes. There were 95,214 white voters and 93,457 colored voters registered; total 188,671.

At the election, 95,772 votes were cast for convention, 3,905 against holding a convention, and 5,406 votes for delegates which were blank as to the question for holding the convention. The press of that day abounded with charges of frauds in the registration and injustice on the part of the officers in charge of it, and with charges of fraud in the count of votes. But this is the official result as announced, and upon which the convention was assembled by the military authority in command of the State.

The senatorial districts of the State—forty-four in number—were adopted as election districts, and one hundred and sixty-nine delegates apportioned and chosen from them, by an election appointed and held for three days only at county seats, and by managers appointed by the military and registration authorities. Many of the managers were negroes; and a large proportion of the delegates elected to the convention to frame the new constitution for the State and adopt the amendment to the Federal Constitution were negroes who had never before voted, and very many of them entirely illiterate.

In this election, held in October, for and against holding a convention to assemble on the 9th of December, 1867, thus organized and submitted to the registered voters of the State, the negroes voted with great unanimity and enthusiasm; and also for delegates favoring reconstruction to represent them. The white voters in many election districts stood aloof, and refused to participate in the election for convention or for delegates. They

refused to take part in the act of calling a convention, and of appointing by ballot delegates for the purposes indicated. Conducive to this non-action of the white people there had been, between the time of the passage and publication of the reconstruction acts of Congress requiring this convention, and the ratification of the 14th Amendment, a vast amount of able and some acrimonious discussion of the matters by the press and political leaders of the State.

The people had begun to revive their hopes and to regain their energies, and ply their activity and industry. They accepted the action of the Legislature rejecting the 14th Amendment with great unanimity, and seemed to regard the matter as settled. The act of Congress of March, 1867, looking to this new reconstruction of the State, startled the hopeful people and aroused their resentment to the General Government, under the general sense of wrong, and of outrage perpetrated by the radical Congress. Such was the public opinion, and the generally expressed sentiment of the press representing the people, at that time.

The people thus summoned suddenly to reconstruct themselves and their own government, to conform to ideas and sentiments above all the most repulsive to them, were ready to follow the lead of any man who counselled them in accordance with their feelings and sentiments. In the absence of any leader they were despondent, dispirited, and depressed in view of the terrible and trying ordeal that was then required by their conquerors.

At this period, most of the former old leaders who survived the struggle were hopeless; many of them, having lost their worldly estates, were depressed by poverty;

many of them feared the ultimate consequences of having been engaged in a war now held to be a rebellion by a government apparently exasperated and incensed against them. It was a sore and severe trial to many who had not quailed before the guns that finally had subdued our section.

The press seemed to halt and hesitate, the leaders to whom the people looked were silent; but few except Governor Brown spoke, and he was advising them contrary to every instinct, impulse, and passion of their nature, and in opposition to their uninformed judgment under the new order of things.

At this juncture Benjamin H. Hill,—who had been before the war a formidable and powerful foe to the Democracy and had opposed secession, and had held the office of senator in the Confederate Congress, had carried his opposition to Governor Brown through the war, had become a leading spirit and light in the civil government of the Confederacy, and the confidant and adviser of President Davis,—with a boldness that challenged almost universal applause, opened through the press his powerful criticisms on the government and party in power, the wrongs as alleged of the proposed reconstruction, and the order of things that would result from their adoption by the people, entitled “Notes on the Situation,” which had so powerful an effect on the people then, and have been so often referred to since, as to have made them historic, and their object and purport are necessarily a part of our State history. In the 15th of these papers he sums them up as follows:—

“The points which I sought by the ‘notes’ to establish were, among others,—

“That the military bills were contrary to the Constitu-

tion and destructive of all the principles and guaranties of free government in America.

" 2. That they were contrary to every code of civilized nations, and in infamous bad faith to the terms of the fight and the conditions of surrender.

" 3. That the reasons urged to justify these measures—such as a desire to restore the Union, elevate the black race, secure guaranties of future peace, etc., etc., were utterly untrue, inconsistent, and insidious—were pretexts to cover the *only real* purpose, which was to perpetuate the power of the radical party.

" 4. That the acceptance of the plan proposed by these bills could only result in a permanent subversion of the government in the degradation of the people in a long and bloody reign of anarchy, with social, civil and agrarian wars, resulting, after unparalleled horrors, in despotism for the whites of the United States, and in the extermination, exclusion, or political re-enslavement of the African race.

" 5. The only remedy for these evils, both threatened and existing, was a speedy return by the people of all sections to the Constitution, and the vigorous enforcement of its remedies against all its violators.

The elaborate and voluminous discussion of these views with the passionate style of a great writer, and on the stump, by him, one of the acknowledged orators of the age, to a people whose minds and hearts were in unison with his, had a most wonderful effect in uniting and solidifying public opinion in opposition to reconstruction on the terms proposed.

These *notes* and Mr. Hill's speeches called out elaborate and able reviews by Governor Brown, written in his usual masterly style, setting forth and defending his own opinions and assailing those of Mr. Hill.

Mr. Hill now had the popular ear and heart. The people in the main shared his sentiments, and hastily and enthusiastically accepted his conclusions, and entered into his passions; he had almost the unanimous press to laud him and condemn his adversary in the discussion. The journals promptly published his articles and praised him extravagantly, and the spirit and hopes of the people were aroused and re-assured. A few only of them printed, and nearly all condemned without measure, the reviews and criticisms of Governor Brown. But few of them were charitable enough to spare his motives.

Other powerful influences were brought to bear upon the public mind at this period. A committee of distinguished citizens of Atlanta called out the views of Ex-Governor Johnson, whose letter, generally published over the State, was a terribly scathing and withering analysis and denunciation of the congressional bills and plan of reconstruction; other prominent and influential leaders joined only in the opposition, and before the time for voting on the call of a convention and the election of delegates arrived the white people had become almost solid in opposition to the proposed reconstruction.

The effect was to keep the white voters who had registered in many districts from participating in the election, but not in the slightest degree to stay the progress of reconstruction. The delegates were elected, the convention assembled and proceeded with the work of making a new constitution, such as was required by the acts of Congress, and submitting it to the voters who had been registered according to the requirements of the reconstruction laws and orders.

The sentiment of hostility to the proceedings was almost universal in most parts of the State. But even after

the election of the delegates to the convention, it was in an unorganized state. The people had not participated in the election, and had held themselves aloof from the proceeding, under the advice of the popular leaders who had their confidence, and of the exasperated press of the State. But they had no course of proceeding, no programme of future action prescribed.

True to the passions, impulses, and prevailing opinions and judgment of those leaders, a voluntary convention of all who opposed the then proceedings—to reconstruct the State under the congressional bills—was called to meet in the city of Macon, to be composed of delegates representing the counties of the State.

This convention, composed of two hundred and thirty-five delegates, representing seventy counties, assembled at Macon on the fifth of December, 1867. Hon. Benj. H. Hill was chosen president. His opening and closing addresses, and those of the speakers who took part in the discussions, were of an exciting character, characterized by ability and dignity, in harmony with the prevailing sentiment and feeling of the people.

An able committee, composed of Geo. A. Mercer and C. B. Richardson of the First Congressional District, Philip Cook and T. M. Furlow of the Second, P. W. Alexander and C. H. C. Willingham of the Third, Thomas Hardeman, Jr., and Daniel Hughes of the Fourth, David E. Butler and E. H. Pottle of the Fifth, J. Graham and W. W. McLester of the Sixth, Luther J. Glenn and J. A. Stewart of the Seventh, was appointed. Hon. J. J. Gresham of Bibb was made chairman of the committee.

The action of the committee, which by adoption became the action of the convention, was more wise and conservative than the speeches and the leading news-

paper enunciations of that period had been, but was accepted and approved generally by the constituency of the convention.

They provided for a committee to publish an address to the people, composed of Herschel V. Johnson, chairman, Absalom H. Chappell, Benjamin H. Hill, Warren Akin and Theodore L. Guerriy, which was written by the chairman, in his powerful and masterly style, and was in harmony with the resolutions of this convention, all of which were extensively published.

The preamble and resolutions, which express the conservative opinions and sentiments of opposition to reconstruction then prevalent, are as follows :—

“ We, the delegates of the people of Georgia, in convention assembled, recognizing our obligation to support the general government in all legal and proper measures, and claiming from that government the due performance of the reciprocal duty, to extend to us, in common with all the people of the whole country, the protection guarantied by the Constitution of our forefathers, do declare and affirm that manly protest against bad public policy is the duty as well as the right of every American citizen; and this without factitious opposition to government, or untimely interruption of public harmony. The season for honest discussion of principles, and for lawful opposition to existing abuses, and their growth, is ever present and pressing.

“ The Southern people are true to constitutional liberty, and ready to acquiesce in any policy looking to the honor and good of the whole country, and securing the rights of all classes of people.

“ We regard the efforts of the present ruling power to change the fundamental institutions of the United States government, as false in principle, impolitic in action, injurious in result, injurious to the South, and detrimental to the general government. Silence under wrong may be construed as endorsement. Be it therefore

“ *Resolved*, 1st, That we recognize the duty to sustain law and order, and support cheerfully all constitutional measures of the United States government, and maintain the rights of all classes under enlightened and liberal laws.

“ *Resolved*, 2d, That the people of Georgia accept in good faith the legitimate results of the late war, and renew their expressions of allegiance to the Union of the States, and reiterate their determination to maintain inviolate the Constitution framed by our fathers.

"Resolved, 3d, That we protest dispassionately, yet firmly, against what is known as the Reconstruction Acts of Congress, and against the vindictive and partisan administration of those acts as wrong in principle, oppressive in action, and ruinous to the States of the South, as well as hurtful to the true welfare of every portion of our common country, and leading directly, if not intentionally, to the permanent supremacy of the negro race, in all those States, where those laws are now being enforced.

"Resolved, 4th, That we protest in like spirit and manner against the policy of the dominant party in Congress, which seeks to inflict upon the States of the South permanent bad government, as wrong, not only to all races in the South, and to the people of all parts of the Union, but a crime against civilization, which it is the duty of all right-minded men everywhere to discountenance and condemn.

"Resolved, 5th, That we enter on record, in the name and behalf of the people of this State, this, our solemn protest against the assembling of a convention, which, we affirm, with evidence before us, has been ordered under pretence of votes which were illegally authorized, forcibly procured, fraudulently received, and falsely counted, as we believe. And in view of the solemn responsibility of the issues involved, we do hereby declare that we will forever hold the work of framing a constitution by such authority, with intent to be forced by military power on the free people of this ancient Commonwealth, as a crime against our people, against the continuance of free government, against the peace of society, against the purity of the ballot-box, and against the dignity and character of representative institutions."

Notwithstanding this strong and decided enunciation of alleged rights and wrongs, and the earnest protest of their opponents, the reconstruction party in convention proceeded with its work of framing a new organic law for the State.

In the various constitutions that have been made, most of the provisions of the old constitution in force before the war have been retained; some have been modified, and others expunged, and provisions inserted to suit the new order of things. This Constitution of 1868 made some elementary and radical changes of organic law.

It enacted that, "The State of Georgia shall ever remain a member of the American Union; the people thereof are a part of the American nation. Every citizen

thereof owes paramount allegiance to the Constitution and Government of the United States, and no law or ordinance of this State, in contravention or subversion thereof, shall ever have any binding force.

“That the social status of the citizen shall never be the subject of legislation.

“There shall be no imprisonment for debt.

“Whipping as a punishment for crime is prohibited.

“There shall be within the State of Georgia, neither slavery nor involuntary servitude, save as a punishment for crime after legal conviction thereof.

“All persons born or naturalized in the United States, and resident in this State, are hereby declared citizens of this State,” etc. And the right of suffrage is extended to such as are male, and of suitable age and residence—and not disqualified—by special provisions. Debts for the sale or hire of slaves were abrogated. The Legislature was required to provide a general system of education to be free to all children of the State, the expense of which to be provided by taxation or otherwise. A homestead of real estate and exemption of personal estate, to the value of \$2,000 of the former and \$1,000 of the latter at gold valuation, were provided, and the seat of the State government peremptorily removed from Milledgeville to Atlanta.

The convention provided by ordinances for an election by the persons already registered as voters, for the ratification of the constitution framed, and at the same time for the election of a governor, members of the Legislature, civil officers of the State, and representatives in Congress.

The opposition, composed of the old Democrats and Whigs and conservative men, such as were assembled

and represented in the Macon convention of the preceding December, now changed their policy and mode of opposition from non-action and inactivity, to action and industrious preparation to defeat the proposed Constitution, and in many counties to elect men opposed to it to represent them in the Legislature in the event of its being declared adopted; to elect a Democratic governor and, generally, the county officers over the State.

The Republican members of the convention chose, and put in nomination, a member of that body from the county of Richmond—Rufus B. Bullock. The Democrats in convention nominated Augustus Reese of Morgan county, a judge of the superior court, who had been removed from office by the military commander of the State—a man of great purity and integrity of character.

It transpired that he was subject to the disability from holding office imposed by the proposed Fourteenth Constitutional Amendment, and thereupon David Irwin of Cobb county, also a man of ability and integrity, commanding public confidence, was nominated. It also transpired, that he, having held office and taken the constitutional oath before the war, while not a soldier in the Confederate army, had taken such part as disqualified him, and thereupon the executive committee of the party selected a man who had never held office before the war, young in years, but eminently distinguished as a soldier and commander in the Confederate army—Lieut.-General John B. Gordon. His nomination was popular. And while there was but limited confidence among the public men of the party that he could be installed if elected, the people supported him with enthusiasm, while voting for their county officers and the members of the Legislature, and in opposition to the proposed Constitution.

The canvass was an exciting one, through the press, and by public speeches from leading men, and in private circles. The resentment against the method of holding and conducting the election, and against the appointees of the military to conduct it, was high and vehement. There were open and frequent charges and complaints of fraud, miscount, and illegal conduct on the part of the managers—and in the consolidation of the vote. But there was no power or authority to investigate and decide upon them.

The Constitution was declared adopted, Mr. Bullock proclaimed elected, and thereupon General Meade, the officer in command of the military district, having succeeded Major-General Pope, assembled the Legislature, and under military escort installed the members and governor-elect, on the 4th of July, 1868.

The constitutional amendment was promptly ratified; and thereupon Congress provided for the admission and representation of the State in Congress, and civil government was restored and military authority suspended on the 21st July, 1868.

At the time the Legislature was assembled and installed, and Gov. Bullock inaugurated by Maj.-Gen. Meade, commanding the military district, the National Republican party had been in convention at Chicago, and nominated Gen. U. S. Grant as candidate for the presidency to succeed Andrew Johnson. Mr. Johnson had been made Vice-President of the Union because he was a Southern Democrat of great intellect and force of character, because of his disloyalty to the State of Tennessee and to the Confederacy, and his inflexible loyalty to the United States. He had been made President just as the war of opposing armies was drawing to a close, by the

assassination of Abraham Lincoln, President of the United States. He had been from an early period after his installation as President at issue and on terms of variance and often of conflict in judgment with the party that had placed him in power, as to the proper course of the government toward the Southern States and their reconstruction and re-admission into the Union, and as to his advised leniency towards the men regarded by the leading men of the Republican party as rebels and criminals and deserving of penalties instead of clemency. This state of division between the conquering party having the majority of both houses of Congress, and having lost the executive by assassination, and the executive of the Union who had acceded to the presidency, and who evidently was not in sympathy with them as to the proper course towards us, or as to the future of national parties, had led to bad temper and mutual bad passions, and culminated in a most powerfully conducted and ingenious plan to impeach and remove the President, which on final trial had barely failed. The President was virtually impeached by the great and dominant Republican party of the Union, and as strongly and triumphantly vindicated by the deposed and defeated yet powerful Democratic party of the United States, North and South.

We of the South, who had least to do with springing or conducting the issues and disputes between President Johnson and the party that elected him, were, consequently to his espousal of our cause and proffered protection, made to an extent the subjects of an animosity and opposition, and consequent oppression that we otherwise might have escaped, from the dominant party, the enemies of the President. Our reconstruction was on hand at this period, when the party, under whose advice and



official action the war had been made upon us, and under whose administration and under whose auspices, in the main, it had been prosecuted to a successful termination against us, had become fully aroused, and were intent on pressing it to its logical and necessary final sequences, and on reaping to themselves, as a ruling party, the full fruits of their victory.

They had called to bear their standard in the approaching presidential contest the man they recognized among their many leaders, who had become distinguished as the great successful hero, representing the military glory and the spirit of the national Union army as well as the objects and aims of the national party.

The Democratic party of the Union was then assembling in the city of New York to bring forward a competitor, and to set forth the principles, aims, and policy of the government when restored to them by the popular vote.

Horatio Seymour, ex-governor of New York, who had been identified with the national Democracy and opposed in his principles and sympathies to the Republicans, was nominated for the office of President; and Francis P. Blair, of Missouri, who had been a Democrat in earlier life and joined the national Republicans before the war, and who had been actively engaged in the war of subjugation and risen to the rank of Major-General in the Union army, but who had, after the close of the war, reunited, and become somewhat extreme in his public utterances, was nominated for Vice-President.

In his letter previously published to Col. James A. Broadhead, he had openly assailed and denounced the whole scheme of reconstruction in strong and unmeasured terms. In this widely circulated letter he says:—

"The reconstruction policy of the Radicals will be complete before the next election; the States so long excluded will have been admitted, negro suffrage established, and carpet-baggers installed in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by Congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overthrown? It can only be overthrown by the authority of the Executive, who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish, under a series of Congressional enactments which are in palpable violation of its fundamental principles.

"If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals, by the accession of twenty spurious senators and fifty representatives, will control both branches of Congress, and his administration will be as powerless as the present one of Mr. Johnson. There is but one way to restore the government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to organize their own governments and elect senators and representatives."

And after amplifying concluded with this:—

"I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one that includes all that is worth a contest, and without it, there is nothing that gives dignity, honor, or value to the struggle."

The nomination of the great leader of the New York Democracy—who had opposed the Republican organization, its aims and purposes—for President, and the author of their recently published "Letter by a Major-General of the Union Armies," as Vice-President, on the Democratic side, to compete for the executive government, against General U. S. Grant, the most popular general, and Mr. Schuyler Colfax, a leading Republican, made the issues that were well calculated to solidify the Democratic Southern States for the Democratic nominees where there was not a majority of colored voters,

and to mass the people of the North, who had subjugated us, in the support of the Republican candidates.

The tendency of these nominations, in the open direction thus indicated, was greatly increased by the espousal of the Democratic nominees and the platform of principles adopted by the National Convention, by most of the distinguished leaders of secession, and of the Confederate government and Southern armies. . In this State, as soon as the nomination of Seymour and Blair was announced, General Howell Cobb, provisional president of the Confederacy, General Toombs, Benj. H. Hill, and others, entered the canvass as speakers, and were unmeasured in denunciation of the national Republicans, the Congressional plan of reconstruction, the newly proposed amendment to the Federal Constitution. They exhausted their powers of invective upon the few leading men of Georgia who adhered to the reconstruction policy and supported General Grant.

The national Democrats in their platform of principles, like the Republicans, avowed the purpose to maintain the public debt of the United States, their adherence to the Federal Union, and demanded economy in public administration. The Democrats demanded the restoration of the conquered States to the Union, amnesty for political offences, and the regulation of the elective franchise in the States by their citizens; arraigned the radical party for oppression to the Southern States, and for violating the pledges of the Government as to the objects of the war—by which the people were led into it; declared the Jeffersonian theory of government, and that the Democratic party of the South had gone into the war to maintain that theory of government; declared that the radical party, instead of restoring the Union, had, so

far as in its power, dissolved it, and subjected ten States, in time of profound peace, to military despotism and negro supremacy.

The national Republicans claimed the success of the war, and the reconstruction policy of Congress, "securing equal civil and political rights to all;" and avowed it the "duty of the Government to sustain these institutions, and to prevent the people of the Southern States from being remitted to a state of anarchy."

The canvass made before the American people upon the issues thus indicated, and under the lead of the men mentioned, at that early period after hostilities, although conducted with great ability, zeal, and warmth by the leaders and press of both parties, necessarily and naturally resulted in the united action of the majority of the white voters of the South on Seymour and Blair, and of a majority of the people of the North on Grant and Colfax, and in their election.

The next political and unofficial movement of the people opposed to the reconstruction and Republican party in this State, was the assembling of the Democratic party in convention in 1870—composed of leading surviving members of the old anti-war parties who had during the struggle made common cause, and of the same kind of material, actuated by like sentiments, feelings, passions, opinions and principles as composed the December convention of 1867 at Macon, and the Seymour supporters of 1868. Judge Linton Stephens, who died two years later, and after bringing to bear in every practical method on public opinion his masterly opposition to the reconstruction acts and the constitutional amendments, was a delegate from Hancock county, and as chairman of the business committee was the author of the platform of principles adopted.

It has transpired since, that it was prepared on conference with Alexander H. Stephens, before going to the convention. The declaratory resolutions are as follows:

1. That the Democratic party of the State of Georgia stand upon the principles of the Democratic party of the Union, bringing into special prominence, as applicable to the present extraordinary condition of the country, the unchangeable doctrine, that this is a union of States, and of the indestructibility of States, and of their rights, and of their equality with each other, as an indispensable part of our political system.

2. That in the approaching State election the Democratic party cordially invite everybody to co-operate with them in a zealous determination to change, as far as the several elections to be held can do so, the present usurping and corrupt administration of the State government, by placing in power men who are true to the principles of constitutional government and to a faithful and economical administration of public affairs.

The Republican administration of the State under Governor Bullock, and the Legislature elected contemporaneously with him, a majority of whose members were in accord and sympathy with him, and the national Republican party, of which he was a zealous and active member, had, by many causes combined, lost favor and support from the people who placed them in power, and increased and intensified the hatred and opposition of the Democratic people of the State. The way was prepared for a change in administration. The resolution assailing the party in power was based on evidences of maladministration so numerous as to be beyond question or controversy, by any fair and candid man, and was therefore in full accord with the public temper. The resolution de-

clarifying federal relations ignored the subject of the new amendments upon which the national Democratic party had been defeated in 1868, and presented common ground on which all the people who were disposed to organize in opposition to Republican rule in this State and in the Union could stand and act together.

The result was the triumph of the party and the election of a Democratic Legislature, a body decidedly hostile in principle and sentiment to Governor Bullock, whose term of office under the new constitution was four years, and who, if he should remain and continue to hold his office, would have to meet and confer with and be subjected to the hostile investigations of an opposing Legislature.

Pursuing the narrative of political parties beyond, in the order of time, the civil administration in the State, we reach the final solution of differences between leaders who had stood aloof and been in hostility to each other from the time the reconstruction began; in the attitude and position of national parties; in the Presidential election of 1872, when the Republican party renominated General Grant, and the Democratic party, despairing of success in electing a man of their own party, determined upon the nomination of a man of the Republican party, Horace Greeley of New York. He had been an open enemy to the national Democracy from early life, had been a Whig, and leading journalist of that party while it had an organization; had been an anti-slavery advocate; had early espoused the national Republican organization in opposition to the Democracy; and had boldly advocated the war of subjugation, and the sequences on the races in the South after victory. He had favored all the amendments of the Federal Constitution in addition

to the reconstruction acts of Congress, and maintained the civil and political rights of the liberated negroes of the South.

The Democratic party in the State elections north had found it necessary to acquiesce in all these measures, and stood in harmony with the Republicans as to the binding force of the Constitution as amended, and the laws for its enforcement. The Democratic party of the South, in its hopeless condition of political antagonism to the organic law of the Union, which all public officers were required under oath of office to support, had drifted upon the same common ground with their Northern allies, ignoring the past offensive action and doctrines of Mr. Greeley and his life-long opinions and theory of the constitutional government, and agreeing with him on the present issues and aims of the party; regarding his liberal views toward the South and to all sections of the country, and appreciating his patriotism, sense of justice, and large philanthropy; and in the hope of drawing off from the national Republican party a large and respectable element known as Liberal Republicans, and organizing that element with the national Democratic party, and thus gaining ascendancy, he was nominated for the office of President.

Alexander H. Stephens, and Linton Stephens, who died at this juncture, with only a few other Democrats of the State, bitterly and openly opposed the action of the party, and the former continued the opposition and refused his support to Mr. Greeley.

But the leaders and people generally had abated all their active opposition to reconstruction, and to the amendments as parts of the Federal Constitution and of binding force, had abandoned all idea of restricting

suffrage on account of race or color, or withholding from the freed negroes of the State any rights to which they were entitled under the Constitution and laws in force. They had an intensified opposition to the national Republican party; had been exasperated by its course, under General Grant's administration, toward the South, and toward the party while in power in the State under Governor Bullock's administration. They ardently desired to change the national Government from the control of the Republican to that of the national Democratic party; but they despaired of hope in that grand result by an attempt to elect a Democratic President. Such appeared to be the decisive judgment of most of the leading minds of the party north, and such was the action of State organizations north, as to then render the attempt nugatory and hopeless. The next great aim indicated by the Northern Democrats was to meet the overtures of the more moderate wing of the Republicans, who sympathized with them in suppressing the abuses of the ruling party,—in the hands generally of extreme and severe men,—and in the re-establishment of law and order and peace, and protection to the people of the South, white and black, and to the stability of State laws and tribunals. As a choice, it was the object of intense desire to place that class of men in power in lieu of those of whose exactions, oppressions, and abuses they complained.

The consequence was that this State in its party organization glided smoothly into the nomination of Mr. Greeley, the ratification of the platform and policy of the national party that placed him in nomination, and, by her delegates accredited to the national convention of the party, actually participated in the nomination.

There had been, however, a point of radical difference

of opinion and action among the native and original citizens of the State, who had been at variance with the Democrats and acted with the Republicans. Some of them were radicalized in sentiment, feeling, and opinion, hated the Democratic party and its leaders, and became fully identified with the national party. They were few in numbers, but acted in concert with the national party in this State, composed mainly of negroes, and supported General Grant for the second term.

A large portion of them regarded the organization for the support of the Government in the reconstruction of the State, her rehabilitation and restoration to the Union, as having accomplished the object that had separated them from their old party. They had lived to see the grounds taken by them in 1867—and maintained against great opposition, and in the face of denunciation and abuse, in 1868—occupied openly by the national party to which they had belonged, and by the leaders in official position in the State, and by the men who shaped and controlled the action of the Democratic party in this State; that the party now led by the men who had denounced them by resolutions of the most unequivocal character sustained their action in everything wherein they had differed. This wing of the reconstruction party was led by a few of the best men of the old party, prominent among them being ex-Governor Joseph E. Brown.

The sequence was easy, logical, and natural. They all came together and cordially united in the support of Mr. Greeley, and secured his triumphant success in this State, though of course he was defeated in the Union. They have acted in harmony in State and National elections since that time, and the bitterness that existed between them has in great part passed away.

BRIEF RESUME OF POLITICAL CHANGES.

From 1850 to 1872, a period of only twenty-two years, the changes of political parties were numerous, rapid, and in many respects, marvellous. At and prior to the first period named, the voters of the State, then composed only of white men, as well as the public virtue, patriotism and intelligence, were divided with great equality between the national Democratic and Whig parties. An election with a change of only a few hundred votes often had the effect to shift the majority and predominance from one party to the other in this State. The popularity of leaders or of particular measures, or the want of it, was sufficient to effect a change of political power in the government. This state of parties was a constant guard over the public administration, and to a very large extent a protection to the people against excesses and abuses of power and prerogatives.

At this time, as we have seen, the division arose between the leaders and extended to the people, as to the course this State should pursue on account of alleged and admitted wrongs of the Federal government in the anti-slavery policy of the compromise measure of that year enacted by Congress, known as the Omnibus Bill, admitting California as a State, with her alleged fraudulently procured, anti-slavery constitution; the suppression of the slave trade in the District of Columbia, alleged to be a violation of the Federal constitution; the purchase, at the price of \$3,000,000, of territory of Texas, a slave State, and annexing it to New Mexico, a then being organized territory; the interdiction of slavery north of a certain line in that territory and Utah, and the refusal to provide for its establishment or protection south thereof;

and the law providing for the return of fugitive slaves from Northern States and Territories, to their owners.

This difference suspended both organized parties, and produced in their stead two new parties, called the Union and Southern Rights parties, which for a short time were intensely opposed and bitter toward each other. The settlement of the controversy by the action of a State convention, and the acceptance thereof on the part of both, dissolved these new parties and remitted most of the men in them to their old alignments for the presidential contest of 1852, from which time forward until 1860, the national Democratic party remained organized in the State. But the overthrow of Fillmore and such other national men as were acceptable to the southern entire Whig party, and the nomination of General Scott, who was obnoxious to many of the most powerful leaders, as a candidate of the party for President, precipitated a division of the party, and caused the nomination of Webster and Jenkins. The elements, however, came together under the name of the Constitutional Union party in 1853, in the support of Mr. Jenkins for governor. And again, in 1855, with the loss of some members and leaders, and some Democratic accessions in the support of Garrett Andrews, the "Know Nothing" or American party candidate. Under the name of "opposition party," after the defeat of the American party, their organization, though in a minority, was kept up and active until after the presidential election of 1860, which resulted in favor of Mr. Lincoln.

In that contest the Democratic party had divided, the larger wing supporting Breckenridge and Lane, the smaller wing supporting Douglas and Johnson. The opposition party, composed in the main of the old Whigs

who had been Know Nothings or Americans, supported Bell and Everett, the national Whig nominees. The Republican or radical party, supporting Mr. Lincoln, was sectional in organization, and had no electoral ticket or acknowledged supporters in the State. His election caused an immediate suspension of all parties in the State, and new alignments growing out of differences of opinion as to the wisest and best course to be pursued.

A majority of old Democrats with a large minority of the old opposition espoused the cause of secession. A majority of the opposition with a large minority of old Democrats—opposing separate State action, and advocating that whatsoever action should be taken should be by co-operation of Southern States—constituted a co-operation party, which was defeated in the election of delegates to a State convention; a majority of whom voted for immediate secession, and declared a secession and separation from the other States of the Union. Thereupon both parties, while there was a partial division on State affairs and in the election of State officers during the war, cordially united in the revolutionary movement, and supported the Confederacy and the war.

At the close of the war and up to the beginning of Congressional reconstruction under the amendments of the Constitution we had no political party, but all stood together upon the platform created for a common people, under the situation of total subjugation and defeat.

We have seen that when the freed black race came upon the exercise of the elective franchise under the coercive measures we have described, the voters of that race massed themselves under the banner of their natural allies, the national Republican party, and that the overwhelming majority of the white voters were aligned

against them, and vindictively and spitefully against native Georgians and Northern Republicans who advised and favored accepting the terms of reconstruction dictated to us; and that in the brief period from 1868 to 1872 the majority yielded all opposition to the terms and to the constitutional amendments, and cordially affiliated with the despised few at home and the great body of the national party in supporting and upholding them.

CHAPTER XIV.

ADMINISTRATION OF GOVERNOR BULLOCK.

Recurring to the narrative of the State Legislature under Governor Bullock, it will appear that the subject of prolongation excited much debate and controversy in that body, and by the press. In this discussion it was insisted that, in the face of the constitution, this General Assembly, arbitrarily and without the two thirds vote required, prolonged its session in order to retain office and power; on the other hand, that their sessions were legal, and demanded by the public interest and policy of the State. The matter is of vital interest, on account of the passage of most important acts in the session alleged to have been illegally prolonged, and that the acts were therefore void. The constitution prohibited that any session after the second under that constitution should extend beyond forty days, except by a two thirds vote of both branches. The session of 1868 was adjourned, and a session held in 1869, which was adjourned and a session held in 1870, which by only a majority vote was prolonged, and important bills passed after the expiration of forty days—the lease of the Western & Atlantic railroad bill, to which special reference will be made, the district court bill, the act requiring the taxes to have been paid in before certain old debts could be collected by suit, and other statutes.

The matter, however, went before the supreme court,

a majority of the judges deciding that not to be a session after the second under this constitution ; that the State government was provisional until the constitutional amendments had been legally adopted, as we shall hereafter see. And upon these rulings the legality of prolongation was settled.

This Legislature, at its first session, proceeded upon the apparent pressing necessities and demands of the people in their impoverished condition. Slaves had been emancipated, and lost as property to the former owners ; the labor system had been demoralized ; real estate had become redundant, and declined in market value ; live stock of all kinds reduced by the waste of war ; much property had been destroyed by fire ; a great deal had depreciated by age and decay, for want of repairs. The circulating medium, gold and silver, had been carried out during the war ; bank bills withdrawn from circulation, and many of them of reduced and doubtful value ; Confederate money and bonds that had taken the place of these had died with the government that issued them. A large proportion of the State securities and treasury notes in the hands of the people had been issued under laws enacted in aid of the rebellion, and had, under Federal coercion, been repudiated and made worthless to the holders. The people who owed debts contracted on the faith of property and securities now destroyed sympathized in the efforts of the government of the State to afford them relief. They regarded it as just that capital invested in promises and obligations to pay money should share the general loss, and be abated in proportion to the losses of other capital. Many creditors, recognizing the justice and humanity of this theory, did not hesitate to compromise and settle at large reductions debts due them, while

many insisted on the stern legal right to collect all that was due them.

Many debtors paid up entire, dollar for dollar. Many others were willing and ready to adjust and compromise, and pay as much as they were reasonably able to pay; while others favored repudiation of debts, and favored all the means proposed for avoiding, postponing, and obstructing the payment of old debts, and for reducing the amounts due and claimed on them. They favored the ordinance of 1865, the provisions of the stay laws, the constitution of 1868, and the bankrupt law of 1867.

A voluminous act was passed for the relief of debtors and to authorize the adjustment of debts upon principles of equity, and an act to carry into execution the provision of the State constitution setting apart a homestead of realty to the value of \$2,000, and exemption of personality of \$1,000, both on gold value. These acts gave rise to immense litigation in all the courts of the State. On writs of error to the United States on constitutional grounds, those laws which tended to prevent the collection of pre-existing debts were set aside, as impairing contracts under the Constitution of the United States. Even debts due for slaves were held to be binding by that tribunal, notwithstanding slavery had been abolished and forever prohibited by the Federal Constitution.

The spirit of enterprise and development then rife among the people found a ready response in this Legislature, in the liberal acts incorporating railroad and other companies, and other public acts to which reference will be made.

On the 29th July, 1868, this Legislature on joint ballot elected Honorable Joshua Hill and Dr. Homer V. M. Miller United States senators. By resolutions respectively

in the House and Senate, passed in September, the colored members of the Legislature were declared ineligible, and for that reason were expelled. And thereupon a new reconstruction began.

These negro members had been holding seats and acting as legislators about two months, and voted on the passage of laws as well as in the election of officers and of senators. They had been admitted to seats without question of eligibility, as had all the white members, without enquiry as to whether they were eligible to seats under the requirements of the 14th constitutional amendment.

When Mr. Hill, one of the senators elect, applied for his seat at the December session of Congress, objection was made, upon the grounds of these alleged illegal proceedings; and thereupon the whole matter underwent investigation. It transpired that when negro members were expelled, the white members receiving a minority of votes were seated, that twenty-seven members disqualified by the 14th amendment held seats, and voted for senators.

At the session of December, 1869, upon the recommendation of President Grant, Congress proceeded with the reconstruction of Georgia by the passage of a law, by large majorities in both houses, declaring the government of the State provisional, until the State should be admitted to representation in Congress. Brevet Major-General Alfred H. Terry was in command of Georgia as a military district—assigned by the President, January 4, 1870.

The Legislature, acting under the recommendation of Governor Bullock, adopted the 14th Amendment again which had been proposed by the 39th Congress, and ratified by that body in July, 1868. Also the 15th

Amendment, which in the meantime had been proposed by the 40th Congress. The General Assembly also proceeded to restore the negro members who had been ejected, and to apply the test oath under the 14th Amendment to the senators and representatives, and to seat the defeated competitors of all who refused to qualify under the requirements of that oath. Some members who had served through two sessions previously were ejected, and the persons who had received a minority of votes, called and qualified in their places, and were voted pay from the first of the first session. The ejected negro members were restored, receiving full pay for the whole time; and the members who had been temporarily seated retired on pay for the time they had served.

Under the constitution of 1868, the Governor's term of office was four years. Hence, in the popular elections of 1870, there were only the representatives and half the senators of a legislative body to elect. This election having resulted in the selection of Democrats with a decisive majority in both houses, Governor Bullock would have to hold the executive office contemporaneously with a Legislature fully in sympathy with the people and therefore hostile to him; and there being various matters hinted at, and statements made in private, and some of them in the public press of the State, imputing criminality on his part in the administration of his office, and a disposition to investigate and to prosecute, the dispirited governor resigned his office and left the State.

At a later period, and after indictments had been preferred, the ex-governor was brought back under requisition of his successor, Governor Smith, placed on trial in the superior court at Atlanta, and fully and finally acquitted by the juries.

Governor Bullock's departure from the State and vacation of the executive office occurred just before the assembling of the Legislature-elect, which was known to contain in each house a majority of Democrats. Benjamin Conley of Augusta—a man of Northern birth but long residence there, a Republican, who had maintained the character of a good citizen and reliable man—was one of that half of the Senate elected for four years, and therefore would hold over with the governor. He was president of the Senate at the previous sessions, and therefore assumed the duties of governor as required by the constitution.

Upon the organization of this Legislature, Hon. L. N. Trammell, of Dalton, was elected president; and Hon. James M. Smith, of Columbus, speaker of the House of Representatives. Prompt action was taken by the Legislature to bring on an election to fill for the unexpired term the vacant executive office, while Mr. Conley, a member of the Senate, was exercising the functions of the office.

At a party convention, Hon. James M. Smith was put in nomination, and at the election held soon thereafter he was elected without formidable opposition. Soon thereafter he was duly inaugurated, and entered upon the duties of the office. Hon. Jos. B. Cumming, of Augusta, was elected speaker in his stead.

During the summer of 1872—six months after the installation of Governor Smith—the Democratic party of the State was preparing by the appointment of delegates to the national convention, in anticipation of the nomination of Mr. Greeley, a Republican; and the full ratification of reconstruction, and all the amendments to the Federal Constitution, and the unqualified pledge of the

party to their support,—all of which occurred soon after. The convention of the party, of the State, in full accord with the people, most cordially ratified the action of their national delegates, and renominated Governor Smith, without opposition, for the four years' term next ensuing. He was elected by an immense majority over Hon. Dawson A. Walker, the Republican candidate. The public odium that had attached to the Republican party during its rule in the State, followed by the departure of the chief, had completely dispirited the people and many of the leaders. Judge Walker, though himself an able man of good private character, was literally overwhelmed by the new and popular Democratic governor, who had the sympathies of the people in all parts of the State.

The most important work upon which the legislators at this juncture entered, the one in which the people were most in sympathy and accord with them, was the investigation of the acts of malversation and fraud, which had been publicly alleged through the press of the State, during the preceding administration—by the governor, the legislature, and public officers and employees of the State.

As it is the purpose to defer a full account of the times following those of Republican rule, to a later volume, I only present here the results of investigation in the important matters that had previously transpired, and were part and parcel of action of predecessors.

FRAUDULENT BONDS AND PUBLIC DEBTS.

This subject is directly connected with the faith, the credit, and prosperity of Georgia. The excitement produced by its discussion and exposition was intense among our own people, and also among the holders of the State's obligations abroad.

There were outstanding bonds and obligations to the amount of \$18,133,000. A majority of these bonds and obligations had been denounced as *bogus*; that they were fraudulently issued, and without authority of law. It was also alleged and claimed that they were issued for valuable consideration by the governor acting publicly for the State, and therefore the State was bound to redeem them. And still more strongly was it urged, that very many of them had passed into the hands of innocent holders—persons who were totally disconnected with the alleged frauds, who at the time of paying value for them had no knowledge or notice thereof, and therefore acted in the most perfect good faith in taking them as the bonds of Georgia.

The committee appointed for this important investigation were, from the Senate, Hon. Thomas J. Simmons of Macon, now judge, by election of the last General Assembly, of the Macon circuit; from the House, Hon. John I. Hall, of Upson county, afterward appointed by Governor Smith judge of the Flint circuit; and Hon. Garnett McMillan of Habersham county, afterwards elected to Congress, who died during the term.

The committee devoted great labor and attention to the facts that they elicited, and to the laws under which the questioned bonds were issued, before making their report, which involved a very large proportion of the State's debts and liabilities. The public current of opinion and feeling ran strongly with the committee and against the validity of all bonds not issued strictly according to law. Their report was adopted and became the law as to those debts. I condense from the extensive printed report, as follows:—

ALABAMA AND CHATTANOOGA RAILROAD BONDS.

In the matter of the Alabama and Chattanooga railroad bonds, under act of the Legislature of March 20, 1869, granting aid to this company, the governor endorsed their bonds to the amount of \$194,000, that all the requirements of the act, and the Constitution were fully complied with, and the proceeding regular, except the omission to attach the great seal of the State to the bonds; and that long acquiescence amounted to a ratification, and that the State is bound by her endorsement of these bonds.

BAINBRIDGE, CUTHBERT, AND COLUMBUS RAILROAD BONDS.

The act of March 18, 1869, granting aid to this company required the completion by the company of twenty miles of the road, to be in running order and free from incumbrance, as a precedent condition to the indorsement of the bonds to be issued for additional building and equipment; without the completion of any part of the road, Governor Bullock endorsed bonds to the amount of \$240,000, to be binding when the signature of the Secretary of State, and the great seal of the State should be attached, which was never done. These bonds were negotiated to and held by persons who knew, when taking them, of the incomplete condition of the work, and that the State would not be bound by the indorsement until the company should comply with the law. These bonds were declared void as to the State's indorsement.

At the time of this action H. I. Kimball & Co., who had obtained the charter from the corporators, who were citizens residing at Bainbridge, Cuthbert and Columbus—

Mr. Kimball himself being president of the road—had failed, the work was entirely abandoned, and so it has continued to this time.

CARTERSVILLE AND VAN WERT RAILROAD BONDS.

By act of March 12, 1869, providing for aid to this company, and without a compliance with its requirements, Governor Bullock endorsed the bonds to the amount of \$275,000. This road also had passed from the corporators, citizens of that section of the State, into the hands of H. I. Kimball & Co., and Mr. Kimball, who was president, negotiated them to Henry Clews of New York, the then holder, who was also treasurer of the company, and had knowledge of the failure to comply with the law prior to the endorsement of the bonds.

By Act of the Legislature of October 5, 1870, the name of the company was changed to that of "Cherokee Railroad," instead of "Cartersville and Van Wert." And thereupon, and while there was not a compliance of the company with the requirements of the Act, the Governor indorsed \$300,000 of the bonds of the Cherokee Railroad Company to take the place of those previously issued, which latter were to be returned and cancelled. These Mr. Kimball negotiated, without taking up or returning the others.

Both sets of bonds for this company were declared void as to the State's indorsement thereon.

BRUNSWICK AND ALBANY RAILROAD BONDS.

There were two Acts granting aid to this company. One of March 18, 1869, providing for \$15,000 a mile for the whole road from Brunswick, on the Atlantic coast, to

the river Chattahoochee, with rigid provisions to secure the State against loss on account of her indorsement of the company's bonds. The other amendatory of the first, —17th October, 1870, when about 100 miles of the road was completed,—providing for the issuing of the State's own bonds to the amount of \$8,000 a mile for the whole road, and authorizing and requiring the Governor to take up the company's second mortgage bonds amounting to \$2,300,000, and to pay the company for the same in the bonds of the State of Georgia, at par, amounting to \$1,880,000.

Evidence is arrayed of the guilty knowledge and participation of the holders and interested parties abroad; many gross irregularities are cited; and the committee say:—

“There was no investment by private parties, to give to the State the security required by the constitution as a condition precedent to the indorsement of its guaranty. In every case, the bonds to cover the sum of the authorized guaranty were issued and indorsed before the completion, in the manner required by law, of the section of the road, upon the completion of which only such guaranty could be given, under the State aid acts.” Hence the conclusion that the bonds were void as to the State's indorsement. Their total was \$4,480,000. It is recited in the preamble to the first-named Act, that the State was indebted to the owners of the road; and they had been damaged \$3,400,000 by the tearing up and demolition of the road by the authority of the State during the war.

The committee say this is false, as shown by the testimony before them. That the control taken by Governor Brown in October, 1861, was at the instance of the stock-

holders and managers, through their agent and president, and under a contract with them. That the seizure of the iron and materials of the road was consented to and acquiesced in by the board of directors, and was not the act of the State or her authority, but of the Confederate Government; and they were used to facilitate the transportation of troops and supplies for the Confederate armies. And that the iron seized was all paid for.

There was great opposition at the time to this bill, on account of the large sum of \$15,000 a mile for the whole road, a part of which had been graded and in use before, and on the grounds set forth in this committee's report.

The second bill, approved by Governor Bullock October 17, 1870, as a fraud, seems to have no parallel in the history of this State, in immensity of design, in abuse of public trust, and in utter want of shame on the part of the interested parties and outside managers. It was suppressed in publishing the Acts of the Legislature. No mention is made of the subject of this bill in any of its phases in the Journal of either house of the Legislature.

The committee in their report, written by Judge Simmons, say:—

“This Act was prepared by W. L. Avery in New York, by him submitted to the board of directors in said city, and by said board accepted and approved before it was forwarded for introduction in the Georgia Legislature. Frost and Clews, the president and treasurer, were cognizant of the nature of the bill, and were advised of every step in the course of its progress, of which any other person in interest in New York was informed.”

At the date of its passage, this New York company—having had issued by the company, and indorsed by the governor, in every instance before the completion of the

work required as a condition precedent to the indorsement, and not having invested any private capital to secure the State, as the organic law required—had negotiated or hypothecated these bonds, and had obtained money thereon, and had constructed and placed in running order about 100 miles of the road. By the terms of this Act, prepared by the attorney of the company in New York, it was provided for an additional sum of \$8,000 per mile for the whole distance from Brunswick to the Chattahoochee; not by indorsing the company's bonds, but by issuing the State's gold bonds; and for taking up the company's second mortgage bonds to the amount of \$2,350,000, and paying the company for the same in the bonds of the State of Georgia, at par, amounting to \$1,880,000; and for placing the whole power and supervision of the affairs in the Governor alone, and cutting off the supervision of the State treasurer. The report of this committee has not been denied, or the evidence on which it was founded called in question to impeach its verity. That report contains the following terse passage upon this stupendous Act:—

“There were, then, indorsed, under Act of March 18, 1869, 3,300 six per cent. gold bonds of \$1000 each, making \$3,300,000. There were also issued in aid of this road, to be exchanged for its second mortgage bonds, 1,880 seven per cent. State gold bonds of \$1000 each, making \$1,880,000. By the terms of the first Act, approved March 18, 1869, granting aid to this company, ‘twenty consecutive miles’ must have been built ‘in a substantial manner’ and be placed ‘in good running and working order, which shall be certified to by an engineer appointed by his Excellency the Governor,’ whereupon the ‘company shall present to the treasurer of the State of Georgia the bonds of the company,’ ‘amounting, in the aggregate, to \$15,000 per mile upon the road so completed, and from time to time thereafter, as often as said company shall have completed any additional consecutive ten miles,’ ‘to be certified as above,’ ‘the like indorsement may be had.’ By the Act of 17th October, 1870, the above Act was so amended as to require the presentation for indorsement of the company's bonds to the governor instead of

the treasurer of the State. This same amending Act authorized and required the governor to take up the company's second mortgage bonds, amounting to \$2,350,000, and to pay the company for the same in the bonds of the State of Georgia at par, amounting to \$1,880,000—that bonds of the State, at the rate of \$8,000 per mile, were to be issued to replace the second mortgage bonds of the company at the rate of \$10,000 per mile; and this *wise* provision, for the credit of the State, was to be intrusted specially to the governor, who, to render assurance of the State's credit doubly sure, was further empowered, upon sixty days' failure of payment, at any time, of the semi-annual interest on these second mortgage bonds, or the like failure to deposit the sinking fund of two per centum provided for in the deed of trust, to take possession of the road with all its franchises and all the rolling stock and other property, real and personal, and *sell* the same. By reason of the untimely ending of his Excellency's administration, this *sale* never transpired."

MACON AND BRUNSWICK RAILROAD BONDS.

The acts under which the bonds of this company were endorsed by Governor Jenkins to the amount of \$450,000, and by Governor Bullock, to the amount of \$1,500,000 was by the act of 1866. Under an amended act of 1870, Governor Bullock also endorsed bonds to the amount of \$600,000, making a grand total of \$2,550,000.

The committee say \$2,100,000 were actually paid in and invested in the road in good faith by private parties, prior to asking for or receiving the aid. This was equal to the amount of Governor Bullock's endorsement, but not to that of all the bonds endorsed. The committee referred the matter to the Legislature without a recommendation; and thereupon that body resolved that the State's guaranty placed on those bonds was binding upon the State.

SOUTH GEORGIA AND FLORIDA RAILROAD BONDS.

Under act of 26th September, 1868, granting aid to this company, Governor Bullock endorsed their bonds to the

amount of \$464,000. The statute and constitution having been strictly complied with, the endorsements were declared binding upon the State.

WESTERN AND ATLANTIC RAILROAD MORTGAGE BONDS.

The sum of \$614,000 of these bonds prepared and executed by Governor Jenkins, left by him in the Bank of the Republic when he was expelled from his office, came into the hands of Governor Bullock, who endorsed and used them legally and properly in taking up past due bonds of the State. These bonds were declared valid and binding upon the State.

CURRENCY BONDS.

Under act of 27th August, 1870, Governor Bullock issued \$2,000,000 of currency bonds, which were hypothecated Henry Clews & Co., the Fourth National Bank of New York, and Russell Sage of New York; and loans were made to the State. These bonds were intended as a temporary issue, to be taken up and cancelled and returned to the State treasurer, so soon as the bonds authorized by act of September 15, 1870, steel-engraved quarterly gold bonds, could be prepared; under which, early in 1871, Governor Bullock prepared, signed, and put in circulation \$3,000,000, and directed that the currency be returned as cancelled. Governor Bullock intrusted Mr. H. J. Kimball with the sale of the gold bonds, with instructions to take up the currency bonds held by the Fourth National bank, and by Clews. The bank surrendered the currency bonds to Kimball, who, instead of returning them as instructed, kept \$170,000 of them, and received money on his own account. Clews receiving the gold bonds refused to surrender the currency bonds, al-

though notified that they were retired by the issue of the gold bonds. Russell Sage loaned the State \$275,000 through John Rice, and received \$530,000 of those currency bonds as collaterals. Governor Bullock afterward forwarded him \$500,000 of the gold bonds to take their place, which he received; but he refused to surrender the others, thus holding \$1,030,000, to secure a debt of \$275,000.

Thereupon, it was determined, that the \$2,000,000 of currency bonds were all retired by the issue of the quarterly gold bonds, and were of no binding force against the State of Georgia.

QUARTERLY GOLD BONDS.

Under the act of September 15, 1870, which did not limit the amount authorized, Governor Bullock issued, as we have seen, \$3,000,000. This authority to issue gold bonds was to pay the bonds, coupons, and interest of the State, due or to become due, and for such other general or special purposes as the General Assembly might designate; \$300,000 of these bonds which had been hypothecated had been returned; \$102,000 not hypothecated, but in the hands of Henry Clews as financial agent to sell, the committee declare not binding on the State. The balance were \$2,598,000, some of which were hypothecated, and some had been sold. Of these the committee say \$350,000 were given for the opera house, for the Capitol, and the purchase of the Executive mansion. Mr. Clews sold \$1,650,000, and the remainder was manipulated by Kimball; the amount realized by him not ascertained. Clews realized about \$1,432,250; of this sum \$375,000 were used in taking up past due bonds and interest, and purchasing gold on State account; about

\$100,000 in paying coupons of Western & Atlantic railroad mortgage bonds and interest on endorsed bonds of Alabama and Chattanooga railroad; \$609,192 were paid by Clews on the drafts of Bullock and Foster Blodgett, the larger portion of which was represented to be on account of the Western & Atlantic railroad; \$198,700 were paid to the Fourth National bank on account of the State; and the remaining \$254,000 were paid for advertising, expressage, notarial fees, telegrams, interest on advances, and other expenses attending the sale. The committee arrived at the conclusion that gold bonds issued by Governor Bullock for the purchase of property, or sold in the markets by his agents, should be recognized as good and binding; that those hypothecated, and on which money was borrowed by the State, be returned to the treasurer; the amount borrowed, with interest and reasonable expenses of returning the bonds, be paid by the issuance of new currency bonds having the same time to run as the quarterly gold bonds, or in cash, at the option of the holders.

The action of the Legislature was in accordance with the conclusions of their committee.

Acting Governor Conley, in his retiring message to the General Assembly in January, 1872, presents the following statement of the action of Governor Bullock upon the subject of the bonds, which we think proper to publish in connection with the facts set forth, and the action of the committee and the Legislature thereon:—

“Under the authority of acts of the Legislature, passed in 1868, there were issued by Governor Bullock, to pay off the members of the General Assembly and other expenses of that body, and to meet the interest due and unpaid, and the interest maturing on the bonds of this State up to February 1, 1869, \$600,000 of seven per cent. currency bonds. These bonds were never intended for sale, but were only to be used as security for temporary loans

made to the State until such loans could be met by payments from the treasury. The amount borrowed upon them has long since been refunded, as the books of the treasurer will probably show, and these currency bonds, with the exception of two hundred and sixty-eight, which were deposited in the treasury to secure the school fund that has been used by the State for general purposes, have all been cancelled and returned to the treasurer's office.

"Under authority of acts of the General Assembly, approved August 27, 1870, September 15, 1870, and October 5, 1870, two millions of dollars (\$2,000,000) of seven per cent. currency bonds were issued by Governor Bullock for the purpose of being used as collateral security upon which to procure temporary loans for immediate use, which loans were to be applied to the objects mentioned in those acts.

"These bonds were never intended, and were never offered for sale. They were issued for the simple reason that it required some time for the preparation of the steel-engraved bonds. The distinct understanding with the parties to whom they were delivered was, that they were not to be placed upon the market at all, but were to be held simply as temporary collateral for any advances they might make to the State until the gold bonds provided for in the act of September 15, 1870, could be prepared and substituted for them, and that as soon as such gold bonds were substituted, the currency bonds were to be cancelled and returned to this department.

"The gold bonds were subsequently prepared and were intended to be substituted for these currencies, and to be used for the purposes provided for by the act under which they were issued.

In pursuance of the understanding above mentioned, there have

been cancelled and returned to this office of these currency bonds,	\$500,000
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"The balance of these bonds are now held by the following parties:

Messrs. Clews & Co., of New York, have	800,000
Messrs. J. Boorman Johnston & Co., of New York, have	120,000
Russell Sage, of New York, has	530,000
The Fulton Bank of Brooklyn has	50,000
	\$2,000,000

"None of these currency bonds can be considered as being in any way a claim against the State, because they were cancelled by the substitution of the gold bonds in their stead. I have written to the various parties who now hold them informing them of this fact, but they decline to return them on the ground that it is not customary to surrender any securities until the account is closed.

"Under the authority of the act of September 15, 1870, there were prepared and issued three million dollars (\$3,000,000) of gold bonds of the State, hav-

ing twenty years to run, with interest at seven per cent., payable quarterly, in gold coin. These bonds were issued for the purpose, as stated in the act, of meeting and redeeming all bonds of this State, and the coupons thereon now due, or when the same shall have fallen due, and for such other purposes as the General Assembly may direct, and to take the place of the currency bonds that had been issued for temporary purposes.

Of these gold bonds there were placed in the hands of Messrs.	
Henry Clews & Co., of New York, for sale and to secure advances made by them upon the currencies and otherwise,	\$1,750,000
There were placed in the hands of Russell Sage, of New York, for the same purpose,	500,000
There were deposited in the Fourth National Bank of New York,	300,000
There were placed in the hands of A. S. Whiton, of New York, .	100,000
There were given to Mr. H. I. Kimball, for the purchase of the capitol building,	250,000
There were given to Mr. John H. James, for the purchase of the Executive mansion,	100,000
	\$3,000,000

"These figures account for the whole issue of these gold bonds. The statement of the account of Messrs. Henry Clews & Co. with the State is in the treasurer's office, and is open to inspection. The detailed statements of the other parties have not been forwarded to this office, but I have written to obtain them, and they will probably be transmitted at an early day.

"According to the treasurer's report for the year ending December 31, 1870, there fell due, during the years 1870 and 1871, bonds of the State amounting to \$215,000. The larger portion of this amount, together with a part of the interest upon other bonds of the State, as it fell due, has been met from the proceeds of these gold bonds, as also the £15,000 sterling of bonds which fell due in 1868, and the £3,000 interest due thereon. Large advances have also been made upon these bonds to pay the claims passed upon by the Board of Commissioners appointed to audit claims against the Western & Atlantic railroad, and to pay the liquidated claims provided for in the act. Notes of the Western & Atlantic railroad for large amounts, given for the purchase of cars, engines, etc., and falling due in 1870 and 1871, have also been paid from the proceeds of these gold bonds. An investigating committee of your honorable body can readily ascertain what has become of every dollar that has been realized from the sale of these gold bonds. These gold bonds have all been prepared in strict conformity with the law authorizing their issue, have been duly registered by the Comptroller-General in a book kept for that purpose, and by him reported to the treasurer in precisely the manner the act prescribes.

"Under the authority of an act of the General Assembly, approved October 17, 1870, temporary lithographed gold bonds, to the amount of \$880,000, were prepared and issued, and placed in the hands of the officers of the Brunswick & Albany Railroad Company, to be used for their temporary requirements, until the regular steel-engraved gold bonds of the State, authorized by that act to be issued to the company, could be prepared. These regular steel-engraved gold bonds were soon after issued, and the \$880,000 lithographed gold bonds have all been cancelled, and are now in the treasurer's office.

"The act of October 17, 1870, above referred to, authorizes and directs the Governor of the State to receive from the President, or other officer authorized by the board of directors of the Brunswick & Albany Railroad Company, the whole issue of the second mortgage bonds of said company, amounting to \$10,000 per mile upon said company's road, and amounting in the aggregate to the sum of \$2,350,000, and to pay said company for the same in the bonds of the State of Georgia at par, bearing seven per cent. interest, payable semi-annually on the first day of June and December in each year, at the rate of \$8,000 per mile, and in the aggregate amounting to \$1,880,000, the principal sum of said bonds to be payable in twenty-five years from the first day of December, A. D., 1869, and his Excellency the Governor is authorized and directed to cause said bonds to be executed in due and legal form, and paid over to said company as aforesaid.

"Under the provision above recited, there have been issued and delivered to the officers of the Brunswick & Albany Railroad Company, one thousand eight hundred steel-engraved bonds of the State for \$1,000 each, having twenty-five years to run, with interest at seven per cent., payable semi-annually, principal and interest payable in gold. These bonds have been duly registered in the office of the Comptroller-General and reported to the treasurer. All of the second mortgage bonds of the Brunswick & Albany Railroad Company, for which these gold bonds were given in exchange, have been forwarded to the treasurer's office as required by law, except one hundred and sixty-two, which the company still hold, and which they will continue to hold, I suppose, until they have completed their road and received the remaining eighty State bonds to which they will then be entitled. These eighty bonds have been partially executed and are now in the Executive office.

"The foregoing statement covers every description and character of bonds that have been issued during the administration of my predecessor, and from it your honorable body will see that the only kind of bonds issued by him that are now outstanding, and that are a claim against the State, are the \$3,000,000 of gold bonds issued under authority of the act of September 15, 1870, and the \$1,800,000 of gold bonds issued to the Brunswick & Albany Railroad Company in accordance with the act of October 17, 1870. The actual liability of the State, therefore, incurred during his administration,

is represented by the sum of \$4,800,000. It should not be forgotten that a large portion of this sum has been devoted to the redemption of bonds falling due in 1870 and 1871, and in years previous thereto, and to the payment of interest on them and on others still to fall due. The debt of the State is not, therefore, actually increased by that amount.

"The contingent liability of the State, incurred by the General Assembly during the time that my predecessor was in office, is represented by the indorsement of the State upon bonds of railroad companies.

"The railroads upon whose bonds the indorsement of the State has been placed during the administration of Governor Bullock, and the amount of such indorsement as they appear from the records of this department and from the books in the offices of the Secretary of State and treasurer, are as follows :

Alabama & Chattanooga,	\$ 194,400
Brunswick & Albany,	3,300,000
Cartersville & Van Wert,	275,000
Cherokee Railroad,	300,000
Macon & Brunswick,	2,150,000
Georgia Air Line,	240,000
South Georgia & Florida,	464,000
Total,	\$6,923,400

"At the last session of the Legislature, the charter of the Cartersville & Van Wert road was so amended as to change the name of that road to the Cherokee Railroad, and the indorsement of the State was placed upon the bonds of the road under its new name.

"The bonds of the Georgia Air-Line road, upon which the indorsement of the State was placed, have been cancelled by the officers of that road and returned to this department, and are now in the treasurer's office. This indorsement amounts to \$240,000, and should be deducted from the total amount above stated. The sum of \$6,683,400 then remains, which represents the total amount of contingent liability of the State, now outstanding, incurred during the administration of Governor Bullock.

"It has been ascertained from the officers of the Macon & Brunswick Railroad Company, that \$400,000 of the bonds of that company were indorsed by Governor Charles J. Jenkins, no record of which indorsement is found on the books of this department. If we add this sum to that last above stated, we have an amount of \$7,083,400, which represents the whole amount of *contingent* liability incurred by the State since the adoption of the policy known as "State Aid." The conditions upon which this aid is granted are familiar to your honorable body. As the State does not indorse the bonds of any road until a specified portion of that road has been actually completed, and then only for a sum equal to half the cost of construction, and as she has a prior

lien upon the property of the road, in the event the conditions upon which her indorsement is given are not complied with, it is not believed that she will ever be the loser to any great extent, and this contingent liability should not by any means be put down as actual indebtedness.

"The above statement covers the whole period that my predecessor was in office, and is a complete and accurate summary of his official action in the matter of which it treats."

WESTERN AND ATLANTIC RAILROAD LEASE.

In December, 1871, under resolution of the Legislature, a committee composed of Hon. Wm. M. Reese and Hon. A. D. Nunnally of the Senate, and Hons. Geo. M. Netherland, Charles B. Hudson, and Geo. F. Pierce, Jr., was appointed, "to investigate the fairness or unfairness of the contract made between Rufus B. Bullock as governor, and the present lessees, known as the Western & Atlantic Railroad Company, by which the road with all its appurtenances was leased to that company, on the twenty-seventh day of December, 1870, under the act of the Legislature passed at the last session, and to investigate the question of fraud in said contract, if any exists."

The Lease Act, though passed by the Republican legislature, and sanctioned by their governor, was introduced by Hon. Dunlap Scott, a Democrat, warmly advocated by Democratic members, and approved by a large majority of the people of the State. This great public work, as was shown in the early part of this volume, was long a source of public expense, in addition to the vast cost and public debt for construction. It was, moreover, a political agency in the hands of dominant parties, as well as a cause of irritation and strife, not to say of fraud and public corruption. We have seen the magic and striking revolution in its management under Governor Brown, when he came into power in 1857; and his grand success

thence up to and during the war, in making it a source of revenue instead of a public burden.

It had now passed into the hands of an administration, was controlled by appointees not possessing the public confidence, and was being made a wreck as to material; and also a drain on the public treasury. The party had power to pass a pending bill to sell the road, and, as we have seen, had wonderful facility for spending and squandering the money. Foster Blodgett, the superintendent under Governor Bullock, who with him had drawn out upwards of \$600,000 of the State's funds from Clews, her agent for the sale of bonds in New York, on the pretence of paying the expenses of the road, was then asking the Legislature for an appropriation of \$500,000 to repair the road.

During the twenty years that had elapsed since the completion of the road, upwards of \$4,000,000 had been appropriated out of the treasury from time to time for it, a sum far exceeding the amounts paid into the treasury from it, leaving out the war period of heavy payments in depreciated currency.

The public mind was ready to accept a solution of the matter which promised to stop the immense leakage from the treasury and increase of taxation to meet it; prevent the loss of the property, proven in the time of Governor Brown to be immensely valuable, by a sale of the road, and sequestration and speculation of the proceeds by unsafe men in power; and, in addition, a reasonable and steady income to the State for a period of twenty years, with the road and all its appurtenances reclaimed from waste, kept and returned in good order at the end of the lease. The public mind was still better satisfied and pleased when the lease was awarded to a company

headed by Ex-Governor Brown himself. It was at once an assurance of its success as well as good faith and integrity.

The Legislature had been elected without reference to it. There were strong prejudices against Governor Brown, and some of his associates who were Northern men; there was vindictive feeling against Governor Bullock, then a refugee from the State. There was also a competing company for the lease, having among the members many men of worth, integrity, political and social influence, and financial ability, to which power and influence was added that of some of the most able and popular men in the State, who were retained as attorneys.

The charge through the press that the lease contract was fraudulent was easily made, and met with the sympathy of a large number of the best people in the State; and there was no solution to satisfy either side but a thorough and sifting investigation. It was made by able lawyers who composed the committee, men of integrity, and resolute to bring out facts, with the period of several months within which to perform their work.

When their report came in at the July session, 1872, the matter was ably discussed for consecutive days in each House, a large majority in each House agreeing with the minority of the committee, sustaining and vindicating the lease in full harmony with an overwhelming majority of the people of the State, as everywhere indicated by their outspoken voice and through the press.

It was against all the committee except Mr. Nunnally, and against a highly respectable minority of the General Assembly, many of whom in the heat of the contest adhered to their original convictions and feelings against the lease.

The General Assembly adopted this resolution, which put the whole matter at rest thence to this time :—

“That, in the opinion of this General Assembly, the lease of the Western & Atlantic Railroad secures to the State a certain sum for rental much larger than can be hoped for under political control.”

The wisdom of preventing the sale of this public work by this plan to lease it is abundantly manifest by the fact that the company, after expending large amounts of their own money to repair, improve, equip and make it a first-class road, and having kept it up to that standard, has paid into the State treasury the monthly rental of \$25,000 for nine years and three months (this April, 1880), making an aggregate of \$2,975,000 which have gone in lieu of the people's taxes. The company has also made money largely, and holds the road for the State with its value largely enhanced.

The lease act made \$25,000 per month the minimum rate of rental, required bond and ample security of \$8,000,000, that the lessees be at least seven in number, and a majority of them be bona fide citizens of this State, and that they be worth above their indebtedness at least \$500,000, and forbade the governor to lease to a company that tendered even doubtful security.

A bid of \$36,500 was made by a company all of the city of Atlanta, composed of M. G. Dobbins, Foster Blodgett, A. K. Seago, Henry Banks, W. B. Dobbins, John R. Wallace, Wm. McNaught, James Ormond, Thomas Scrutchins, James M. Ball, A. C. and B. F. Wyley, T. J. Hightower & Co., P. and G. T. Dodd, Abbot & Bro., John Collier, S. B. Hoyt, John M. Harwell, W. J. Tanner, and A. Leyden, who showed that they were worth above their indebtedness, \$950,000; and tendered as security the

Central Railroad and Banking Company, the Southwestern Railroad Company, and the Macon & Western Railroad Company.

Notice was filed with the governor, by W. S. Holt, president of the Southwestern Railroad; A. J. White, president of Macon & Western Railroad; and W. B. Johnson, agent of the Central Railroad & Banking Company, denying the authority of this company to tender those corporations as security, and refusing to become their security on their proposal to lease.

The company who obtained the lease showed that they were worth above their indebtedness \$4,000,000. It was composed of Joseph E. Brown, Benjamin H. Hill, Wm. S. Holt, John T. Grant, Andrew J. White, Benjamin May, Hannibal I. Kimball, John P. King, Richard Peters, Charles A. Nutting, Wm. B. Johnson, Wm. C. Morrill, Alexander H. Stephens, and H. B. Plant, all of this State, Simon Cameron of Pennsylvania, John S. Delano of Ohio, Wm. T. Walters of Maryland, Thomas A. Scott of Pennsylvania, Edmond W. Cole of Tennessee, George Cook of Connecticut, Ezekiel Waitzfelder of New York, Thomas Allen of Missouri, and Wm. B. Dinsmore of New York.

They offered as security the Central Railroad and Banking Company, the Southwestern Railroad Company, the Macon & Western Railroad Company, the Georgia Railroad & Banking Company, the Atlanta & West Point Railroad Company, the Macon & Brunswick Railroad Company, the Brunswick & Albany Railroad Company, all in this State; Nashville & Chattanooga Railroad Company, and the St. Louis & Iron Mountain Railroad Company, with verification as to the worth of the applicants and the securities offered.

Governor Bullock decided that this was the only bid that complied with the requisitions of the lease act, and awarded the lease to this company. And thereupon the road and all the property that appertained to it were turned over to them, at the stipulated rental of \$25,000 per month, or \$6,000,000 for the whole period.

CHAPTER XV.

A SUMMARY OF GOVERNOR BROWN'S CHARACTER.

The personal history of Governor Brown is blended with and becomes an important part of the history of the State, as appears up to the time of his displacement by the military power of the United States at the close of the late war; and his political course after the war and during the period of the reconstruction of the State, and of political parties fully appears in that part of our narrative.

Governor Brown like all leaders of the people has been the subject of opposition, and has suffered defeat. The failure of the Confederacy was a sore and humiliating defeat to him, as well as to all the dominant party leaders of the South. After his brilliant triumphs before the people of the State, anterior to and during the war, never having been defeated in any popular election, and after he had become the leader of reconstruction in this State and the subject of extreme and bitter opposition by his former political friends and allies, he became a candidate for the first time before a legislative body—a body composed of a large majority of members agreeing with him in political tenets. He was nominated by the party caucus for the office of United States senator. His former defeated rival in 1863 for the office of governor, the Hon. Joshua Hill, became also a candidate and, dividing the Republican and receiving the

Democratic vote of the General Assembly, was elected over Brown.

Soon afterward he was nominated by Governor Bullock and confirmed by the Senate, as chief justice of the supreme court of the State for the term of twelve years. It had been eleven years since he resigned the judgeship of the Blue Ridge circuit, to enter the Executive office. He had grown older and maturer in judgment, his intellectual powers had been quickened and strengthened by constant and often intense and exciting labor and application in the matters of state. The people, even those who severely condemned his late political course, awarded to him superior mental power and fitness for the judicial office.

The expectation of the public was amply fulfilled in the prompt, firm, able, and impartial administration of the chief justice during his short career. Hon. Hiram Warner—who had long been a superior court judge in early life, a superior court judge after the close of the war, a supreme court judge for eight years on the first organization of the court, and since the war chief justice, and who is now the chief justice—and the Hon. H. K. McKay, a man of great ability and labor, were his associates. Many of the questions for adjudication were new and exciting to the public mind. The judges sometimes differed in opinion and, all being made of stern material, they continued to differ. The published opinions are characterized by learning, ability, and firmness, and form a series of authoritative decisions on all the important legal and constitutional questions of that period. In the latter part of 1870 Governor Brown resigned the office of chief justice and took charge of the Western & Atlantic Railroad, as president of the company of lessees, as we shall see.

His career since retiring from active connection with politics appears to the public to have been, if possible, better adapted to his capabilities and talents, and has been crowned with still greater success, as a financier, in the management of the public enterprises confided to him, as well as in that of his own private fortune; for the ten years intervening are matters of universal commendation and approval in commercial and business circles, because of a general and grand success, free from all well grounded suspicions, implication or charges of unfairness, fraud or violation of public or private faith and engagements. In this characteristic, which distinguishes him from many of his contemporaries, he has erected to himself a monument that will be and should be more enduring than the stones that an earthly accumulation may and will, within a few years rapidly coming and going, place above his resting place in mother earth.

One of the enterprises in which he embarked, which has proven to be a grand financial success, and connects him directly with the material welfare and progress of the State, in the development of a part of her vast subterranean wealth, was that of coal mining at Sand Mountain in Dade county, near the borders of Alabama and Tennessee. This enterprise began as a private company, but was afterward incorporated under the name of the Dade Coal Company. The stock is owned, one-half by Joseph E. Brown, and son Julius L. Brown; the other half by John T. Grant, and son W. D. Grant, and W. C. Morrill, of Atlanta. Ex-Governor Brown has been president of this company from its organization to this time. The company owns fifteen thousand acres of lands of untold mineral deposits; employs three hundred State penitentiary convicts as lessees of the State; and about

one hundred other persons as engineers, laborers, overseers, and guards. Their works turn out from 13,000 to 14,000 bushels of coal per day; which yields a large amount of coke, as good as any in the United States, which supersedes the burning of timber for charcoal.

In addition to these extensive coal and coke operations, under the presidency and sagacious management of Ex-Governor Brown, that company in connection with Mr. J. C. Warner of Tennessee has lately purchased the Rising Fawn iron property and furnace, in Dade county, embracing about seven thousand acres, including a large amount of coal and iron ore, and has upon it one of the finest iron furnaces of the country.

The whole property, including construction of the furnace and improvements, cost the new company, the original owners, upwards of a half million of dollars. The company, under authority of an act of the Legislature, issued their bonds to the amount of \$300,000 secured by mortgage on the property, and, having made default of payment of the interest for a considerable period of time, the bondholders proceeded to foreclose the mortgage in the United States circuit court for Georgia. Under the decree of foreclosure, the property was sold by the United States marshal at Atlanta, and purchased by the Dade Coal Company, and Mr. Warner, an experienced iron manufacturer, for one hundred and thirty thousand dollars. These parties are operating the furnace successfully. It consumes from eighty to ninety tons of coke per day, which is made at the Dade coal mine; also consuming per day about one hundred tons of iron ore, and producing per day about fifty tons of pig iron.

In connection with this the Dade Coal Company is

constructing a railroad from Rogers station on the Western and Atlantic railroad to some inexhaustible deposits of superior iron ore, located on Petet's creek in Dade county ; from which it is expected the company will ship large quantities to the different places in the South.

In view of the vast improvements in railways and works at the company's expense, the vast and increasing demand for their products, and that of the deposits of coal and iron belonging to them, these enterprises taken together are much the largest and most important of any of the kind ever made in the State.

His successful management, while governor, of the Western & Atlantic railroad, as the property of the State ; the conversion of the immense public capital invested in it, from what was constantly denounced as a vast political machine attended with public expense, to the basis of a well managed and paying railroad ; excluding political corruption and private speculation, making it a source of great income to the State treasury,—has only been equaled by his successful career as president of the company of lessees from the State, from 1870 to this time.

Perhaps no higher tribute has been paid to his superior forecast, sagacity, and entire safety and reliability as a business man, than the presidency of the Southern Railway and Steamship Association, in 1874, upon its organization, and the annual re-election from that time to the present.

This association embraces all the steamship lines running down the Atlantic coast, and most of the railways east of the Mississippi river, between the Potomac and the Ohio.

His grand and far-seeing policy of public education, that engrossed so much of his heart and mind while gov-

error, far in advance of the situation and public spirit of that period, has grown upon the succeeding period, and has already attained a wonderful success, and promises still greater in the near future. While not holding any political office, he has, since the adoption of the school system provided for by the constitution of 1868, held the position of president of the educational board of Fulton county, and has also been a most devoted member of the board of trustees of the State university of Georgia for upward of twenty years. He has educated his sons there in later years, but from his earliest connection with this great center of Southern learning, he has been an ardent and devoted friend in public and private, devoting his mind with all its power, to the consideration of the vast and comprehensive aims of the institution. And it is no disparagement to the array of able and devoted men who are associated with him, that he has always exercised a very large and controlling influence in the councils and deliberations of the board.

In no circle he ever enters as a participant is he looked down upon by a senior in ability, power, practical judgment, and influence. Most men, even of great ability, eminence, and wealth, who are associated or come in business contact with him, have long since learned to look up and defer to this prodigy of a man, who, within a few years after leaving the old-field log-cabin school and the handle of the plow, sprang to the first rank, not only as a statesman and jurist, but as a philanthropist in projecting enterprises for the public good, and as a man of far-seeing wisdom and prudence in all matters of business, either for the public or as related to his own private affairs.

And if superior excellence is to be found in one sphere

of his activity of mind and body over another, it is perhaps in the last named department. He grew up a farmer boy, and has carried forward his early training to great improvement, and with great profit to the present. In addition to the public enterprises that engross so much of his time and mind, he has kept up farming as a constant business; and although he has not figured in the current agricultural literature of his time, he has been eminently practical and successful in his investments and operations. In this, as in every other matter under his control, he has been endowed with almost prophetic wisdom in the selection of agents and superintendents; and has with them what but few men can truthfully claim in business matters, that, added to inflexible justice and promptness in dealing, he is invariably firm in the requirement of faithfulness from them.

He has three large farms in Northern Georgia, in the counties of Cherokee and Gordon, on which, by his regular direction, through employes, there is annually carried on a well diversified and profitable system of agriculture.

But the plan adopted by Governor Brown soon after the war, of drawing in investments from other sources, and placing them in the charred and desolate ruins of the wonderfully progressive city of Atlanta, has been perhaps in proportion to original costs the most powerful and effective agency in the rapid accumulation of his fortune.

To all who would study the business example of Joseph E. Brown with profit, it is not considered out of place to add that but few men have been endowed as he is; with brain capacity, energy, the power of endurance and perseverance, quickness of apprehension and rapidity of

decision ; and perfection of schemes and plans for his purposes ; but few, who like him, can either mould and bring about circumstances, or adapt themselves to the unavoidable. And there are but few who are so entirely exempt from habits of intemperance and excess as to hope for his perfect steadiness and regularity of life. These qualities in the ex-Governor when realized to exist, as all do realize them who have an opportunity, indicate at once to the reflecting the sources of his great success.

But there is one mental and business habit, and of action and repose, that all, now and hereafter, may study and practice with benefit.

He works with the regularity of a perfectly adjusted machine ; is temperate in the application of supporting diet, as is a skilled machinist in the application of steam ; and sleeps by the force of controlling will power as promptly and soundly as the wheels and levers of the machine stop and rest when the steam is shut off. This is the great and valuable key to explain how a man of naturally frail and feeble, though tough and durable physical constitution has been able to live, enjoy health, and perform the herculean labor he has for the whole period of his manhood.

He is different from almost all business men in another mental habit ; that is, *one thing at a time*. When Brown is on railroading, or coal, or iron mining, farming, or any other subject, for the time being all his powers are so engrossed in and devoted to that as to shut out all the others ; and when he suspends, the subject is laid aside at a given point, and precisely at that point, when the time or occasion arises to make it necessary, he resumes it as easily and promptly as the tailor resumes work upon an unfinished garment, or the carpenter the incomplete edifice.

But not by far the least important method and agency of the financial success, in all his large and small enterprises, may be summed up in one word, *promptness*. It is a fundamental and tenaciously adhered to principle—adopted from boyhood and followed without exception, up to the present—to meet every financial engagement or liability with absolute promptness, no matter what the inconvenience or cost might be. Hence, his credit has never been the subject of criticism or doubt in any financial circle. This, with the sagacity and forecast which were in great measure the gift of the Creator, and which have been cultivated and enlarged by practice that enabled him to determine when it was safe and advisable to make those engagements, has contributed wonderfully to the success that has crowned the laborious life of Joseph Emerson Brown. For the sake of the moral, religious, financial, educational and material welfare of his country and ours, it will be well if the period under Divine Providence is still distant in the future, when the sorrowful mind of his memorialist shall be called on to set forth the deeds of benevolence and charity, of the honest business man, jurist, statesman, philanthropist, and Christian.

CHAPTER XVI.

SUPPLEMENT PREPARED FOR THE PUBLISHERS, BRINGING THE NARRATIVE OF EVENTS TO SEPTEMBER, 1883.

Colonel Fielder's volume ends with the last, the 15th chapter. The current of events in Georgia is brought from the year 1872, when he closes his narrative, up to the date of the publication of the book in September, 1883.

The administration of Gov. James M. Smith continued until the 12th day of January, 1877. Among the more important public matters during his terms that have not been alluded to were the establishment of the departments of agriculture and geology, and the endowment of the State University at Athens with the Land Scrip Fund, and the resulting organization of branch colleges at Milledgeville, Cuthbert, and Thomasville. The department of agriculture was begun on the 26th of August, 1874, by the appointment of Dr. Thomas P. Janes as commissioner. He was reappointed in 1878, resigned in September, 1879, and was succeeded on the 24th of September, 1879, by the Hon. John T. Henderson, who is still commissioner. It is difficult to measure the value of this department. It has introduced rust-proof oats and wheat, rendering these valuable crops a certainty. It has not only protected the farmers from loss by frauds in commercial fertilizers, but it has by the proceeds of inspection supported the department and paid large sums into the State treasury, running as high as \$64,060.23 in a single year. It

has operated a constant and valuable interchange of ideas and practices among the planters. It has distributed new and valuable seeds for trial and adoption. It has revolutionized the old systems of planting, furnishing progressive methods and processes, increasing the yield and lessening the cost of production. Its periodical publications of farming intelligence have disseminated beneficial information, and formed the basis of valuable statistics and comparison of experiences. Its manuals upon special stock industries have been a liberal education to the people in such specialties. Each year adds to the efficiency and utility of this department.

The department of geology was inaugurated by the selection of Dr. George Little as State geologist, August 10, 1874. The department was run until the year 1879, when the General Assembly unwisely refused to appropriate the necessary funds to continue its operations. The benefit of a complete geological survey of the State may be understood from the valuable practical results that have followed from the partial survey that was made. Large mining and manufacturing enterprises have sprung into existence, drawing capital and increasing the taxable wealth of the State, based upon the revelation of the resources of the Commonwealth made by the geological department.

The recent death of Ex-Gov. Charles J. Jenkins recalls that during the term of Governor Smith, that venerable and illustrious citizen and chief magistrate of the State returned to the executive department the executive seal which he had carried with him when removed from his high office by the military. The Legislature of 1872 passed a resolution introduced by the Hon. J. B. Cumming authorizing the governor to present to Governor

Jenkins a gold copy of the executive seal with the suggestive inscription upon it, "Presented to Charles J. Jenkins by the State of Georgia," and the words "*In arduis Fidelis*." Governor Smith performed this agreeable duty through Hon. J. B. Cumming in an appropriate letter, to which Governor Jenkins made an eloquent response; in the recent legislative honors paid to the memory of Governor Jenkins, the orator Col. Charles C. Jones, Jr., made touching reference to this incident.

During Governor Smith's term Gen. John B. Gordon was elected to the United States Senate, in 1873, while Hon. Alexander H. Stephens was re-elected to Congress, from which he had retired to private life before the war. In 1875 the Hon. Benjamin H. Hill was elected to Congress.

Governor Smith was succeeded by Gov. Alfred H. Colquitt, who held the exalted office of chief magistrate from the 12th of January, 1877, until December 4th, 1882. The administration of Governor Colquitt was marked by many important public events and marked changes in the State government. The leading political occurrence during his terms was the sweeping alteration of the organic law of the State by the constitutional convention of 1877, of which the lamented Jenkins was the president. The Constitution of 1868, while it was a very good instrument, labored under the odium of having been framed by a body chosen under the strong dictation of bayonet rule, and there was a large element in the State who held it in such disfavor that after continued agitation of the subject the Legislature of 1877 passed an act giving the people an opportunity to vote a constitutional convention into existence if they desired it. The vote was a very small one, aggregating 87,238, and the convention was carried

by 9,124 majority. The body was a fair representative organization of the State's best men; there were 28 public men who had been governors, United States senators, congressmen, and judges. The largest measure enacted was the creation of the commission to manage the railroads; the terms of officers were shortened, and salaries reduced; judges and solicitors were made elective by the Legislature instead of appointive by the Governor with the advice and consent of the Senate; the State House officers were made elective by the people instead of by the Legislature; the homestead was reduced; State aid was forever prohibited; the payment of the illegal bonds was forbidden; the increase of the public debt was inhibited; biennial sessions of the General Assembly were adopted; an attempt was made to restrict local legislation by requiring local notice, and burdening legislation with troublesome formalities. The people were allowed to vote on the question of locating the capital at Milledgeville or Atlanta, and the reduction of the homestead; the vote gave Atlanta a majority of 43,964; for the homestead of 1877, 42,722; and for the ratification of the new Constitution, 69,495.

The Legislature carried out the constitutional innovation for controlling the railroads by the creation of a commission. In October, 1859, Governor Colquitt appointed under this act as railroad commissioners, Ex-Gov. James M. Smith for six years, Major Campbell Wallace for four years, and Samuel Barnett for two years. Upon the expiration of Mr. Barnett's term in October, 1881, Governor Colquitt appointed Hon. L. N. Trammell, and Major Campbell Wallace was re-appointed in August, 1883, as his own successor. There has been a steady opposition by some of the railroads to the commission; the Savannah, Florida

& Western railroad made an effort in the United States court to resist the commission, but failed. The Georgia railroad in the State courts instituted suit for the same purpose, but met with defeat; every issue made in the law tribunals to dwarf the authority of the commission has failed. The Georgia railroad will carry its case to the Supreme Court of the United States, when there will be a final adjudication of the power of the Board.

It is generally conceded that the commission has sought to do justice to the railroads while endeavoring to protect the popular interest, and under its orders the business of the roads has increased. The practical workings of the body have been beneficial. The commission has made repute for itself and the State, and served as a model for other States.

Governor Colquitt's administration was a singularly beneficial one in practical results for the State. At the very inception of his term he was called upon by the General Assembly to send in a message giving suggestions upon public policy. He framed a document full of valuable ideas that were afterwards carried out to a large extent. He treated in this carefully prepared paper the questions of a complete return of property for taxation, of both a closer and cheaper collection of taxes, of reducing the cost of legislation, of cutting down the clerk hire of the General Assembly, of diminution of outlay in the printing, contingent, and building funds, of reducing the clerical force in all the executive departments, of abolishing superfluous offices and instituting a general system of small economies. He went into the details of these reforms, evincing his careful study of the subject and mastery of the questions involved.

During his terms there were paid into the public

treasury from outside sources \$213,731.34, on old claims connected with the war of 1836 and the Western & Atlantic railroad; the sum of \$216,683.27 was collected from the railroads of the State on back taxes of 1874, 1875, and other years, besides a larger annual railroad tax secured; the sum of \$164,608.12 was collected in earnings from the Macon & Brunswick railroad that had not paid before anything to speak of; the floating debt of \$200,000 was completely wiped out; the public debt was reduced from \$11,095,879 to \$9,343,500, or \$752,379, in addition to four per cent. bonds redeemed; the rate of taxation was reduced from five-tenths of one per cent., or fifty cents on the hundred dollars, to two and a half tenths of one per cent., or twenty-five cents on the hundred dollars, or one-half; the practical effect of the reduction of the rate of taxation being that under the five-tenths rate the large sum of \$1,229,268 was raised on taxable property of \$245,853,750; while under the two and a half tenths rate at the close of Governor Colquitt's terms, \$700,000 was raised on \$270,000,000 of property, the people being relieved of \$750,000 in round numbers, of actual annual taxation.

There were, during Governor Colquitt's admirable administrations, lengthy legislative investigations into several of the departments of the State government, including an examination into his own official act of endorsing \$260,000 of the bonds of the Northeastern railroad. Governor Colquitt's conduct was fully endorsed, and he was re-elected governor by an overwhelming majority. The investigations into the State departments left the executive wholly unaffected. At the end of Governor Colquitt's term he was elected by the General Assembly to the United States Senate for the term of six years

beginning on the 4th day of March, 1883. This honor was won by this gentleman, like his re-election as Governor, under a full test of the public sentiment after contests of great warmth, and under circumstances peculiarly gratifying.

The career of Governor Brown since 1872 has been full of steady growth in public esteem, the rectification of an unjust and severe public misconception of his motives and acts during reconstruction, wider recognition of his private excellences, legitimate enlargement of his private means and influence and a broadening public usefulness and honor. Resigning the distinguished position of chief justice after only two years most capable service and renouncing ten years of his term, a conclusive demonstration that his unpopular position upon reconstruction had been uninfluenced by personal ambition, he devoted himself for years to the quiet pursuit of his private fortunes. His position as president of the company that leased the Western & Atlantic railroad brought him into various conflicts with the Legislatures of the State to repel assaults made upon the integrity of the lease. In these conflicts, covering the Legislatures of 1872 and 1874, he exhibited all of those remarkable powers that belong to the man. Cool, poised, tireless, full of resources, aggressive, master of the subject, he made himself master of the situation.

A joint committee of the General Assembly of 1872, consisting of Senators A. D. Nunnally and William M. Reese, and Representatives C. B. Hudson, George M. Netherland and George F. Pierce, investigated for weeks the circumstances of the granting of the lease. Every fact was patiently sought; the examination of witnesses was as complete as it could be made; the discussions

were full, covering the whole ground. The Seago-Blodgett company, as the rival organization seeking to obtain the lease was called, with strong counsel, made strenuous efforts to invalidate the lease contract. The result was a decisive victory for Governor Brown and his co-lessees ; the lease was affirmed in the most solemn manner.

Again in 1874 a legislative assault was made upon the lease, and a lengthy investigation resulted in a complete victory for the lessees. In this as in the previous ordeal Governor Brown was the leader of the defence, exhibiting the same masterly qualities of management, and the same effective handling of a good cause that gave no chance for defeat and secured the triumph of the right against powerful and well-conducted attack. Governor Brown in this last contest gave a characteristic illustration of that species of ambush that in conflicts of argument and interest, as well as in war, proves very effective. The gentleman antagonizing the lease was forgetful enough to deny the existence of a letter whose production overwhelmed him with confusion, weakened his effort and discomfited him to such an extent as to wholly emasculate his opposition. Several times in Governor Brown's battles has he sprung forgotten letters upon opponents with powerful effect. And his antagonists have learned to dread his resources and strategy.

The last General Assembly made another lengthy investigation into the lease to ascertain the status of the bond and the ownership of the shares, and referred the whole matter to the attorney-general, with instructions to report to the Governor whether the bond should be strengthened, and, if after notice the lessees should fail to do so, to institute suit to abrogate the lease. All of this was done. The present General Assembly after a full discussion of

the matter wisely passed a resolution to dismiss the suit and let the lease alone. Senator Brown made an argument before the Senate committee which covered the whole ground. This powerful paper of the distinguished president of the lease company was conclusive. It placed the matter in so strong a light, and was backed by so large a public sentiment in the State, that the Legislature by an overwhelming majority passed the resolution to dismiss the suit, declining to either require an increase of the bond or the payment of the costs of suit by the lessees, both of which propositions were pressed. This decisive action is probably a final settlement of this active and costly lease agitation. It is safe to say that no other person could have carried the lease through the trying ordeals through which it has passed besides Senator Brown. And his triumph over so many and such vigorous attacks has been a crucial test of his remarkable abilities.

Governor Brown for many years devoted himself almost exclusively to business pursuits, pretty nearly ignoring politics. He became, as we have seen, president of the Western & Atlantic Railroad Company. He also became president of the Dade Coal Company, working four hundred and fifty hands, of which three hundred and fifty were convicts of the State. This coal company owned about twenty-five thousand acres of coal and iron lands, and has been run with the same successful business methods that have marked all of the enterprises both large and small that have been managed by this remarkable man. He became president of the Walker Iron and Coal Company, which is worked in connection with the Dade Coal Company, working about ninety tons a day. The Dade Coal Company also owns very valuable beds of

iron ore in Bartow county, which are being worked to profit by Governor Brown and his company. The writer has no doubt that these various mineral properties will embrace one million dollars of capital. These three mineral interests controlled and worked by Governor Brown employ over eight hundred hands. He was president of the Southern Railway and Steamship Association, which embraces the great lines of Southern freight transportation.

Whatever scheme he handled was conducted by him with consummate ability and sagacity. He seemed equally at home in every species of material industry. No new business proved too much for his extraordinary and varied capacities, or was able to baffle his comprehension and mastery. His marvellous business career has been as phenomenal as his political course, as full of daring surprises of achievement. His executive ability was simply proof against any draft upon it; his multifarious trusts were any single one of them enough for an ordinary man. But so well systematized are his labors, so judicious his selection of agents and subordinates, so masterly and correct his grasp of the principles of each industry, so thorough his supervision, so firm his authority and so intelligent and sensible his policy, that he keeps well in hand his many enterprises and drives them all to remunerative success.

He is less in a hurry than any living man, and he does all things thoroughly; he is the most deliberate of men, and the most attentive to his smallest obligations. He forgets nothing, omits nothing, attends to everything. The most trivial undertakings that he assumes are remembered and executed. His wonderful despatch of business, however, while due very largely to systematic method, and prompt attention, is attributable also to native qualities of mind and will that few men possess.

He has, beyond the most of men, a quick intuition and a rapid judgment. He has uncommon industry and energy, but with them the capacity of swift assimilation, and instantaneous decision. His mind leaps to prompt conclusions and accurate ones; what he weighs in his mind is coned over with searching power of native analysis, looking dispassionately to just results without self-deception growing out of self-interest, but with a marvellous power to confront and own the truth. Governor Brown does not allow his wishes to deceive his perceptions, as the most of men do. He has the sense to see the reality, in which the majority of men are like him, and the nerve to admit it to himself and act on it, in which he is unlike the majority of men. His superiority is in his more thorough investigation, swifter judgment, and more resolute determination. Add to these his perfect system and we have the range of business qualities that have made Governor Brown so phenomenally successful in business.

All of the time, however, that Governor Brown was pursuing his material plans of wealth, his name had ever a mysterious and perennial potency in public matters. He was the hidden power of Georgia politics, believed to be the ruling spirit of every campaign, endowed by the popular fancy with an inscrutable influence in framing every result, and alternately anathematized and be-praised as the omnipotent author of defeat or victory. His subtle agency was alleged in every piece of deft strategy that scored a triumph or discomfited an opponent. His strong hand was imaginatively discerned in every political combination. His wily brain was claimed in each wise or fruitful movement of great parties. It was remarkable how the public mind endowed the man, and all this was a striking practical tribute to his genius.

Governor Brown did occasionally make a political stroke; he had urged the acceptance of reconstruction, but he stopped right at the line of what he considered absolute public necessity. He went not one step beyond. He had fought every wrong of the reconstruction regime from prolongation to robbery. He had opposed additional reconstruction that sought an unnecessary resubjugation of the Southern States. He had condemned Grant and Bullock when their administrations bore with gratuitous severity upon our people; when a man named Isaac Seeley invented a trick to get Congress to prevent the abridgment of voting for non-payment of taxes by the fabrication of affidavits showing the denial of the right to vote by false challenges, Governor Brown exposed it in an open letter.

He was ready at all times and in any way to serve the public welfare. In the memorable contest between Mr. Tilden and Mr. Hayes for that great prize, the presidency of the United States, won by Mr. Tilden at the ballot box, but enjoyed by Mr. Hayes, Governor Brown took an important and historic part for the Democracy. Burdened with his multiplied and onerous business cares, suffering from a disease of the throat that rendered him really unfit for any duty private or public, he yet laid aside his private matters and, ignoring the admonitions of his physician, he went to Florida and spent weeks there in obedience to the call of the Democratic party to give his great abilities to the investigation of the alleged election frauds upon whose proof rested the hope of making Hayes president. If the vote of Florida for Tilden could be set aside his election could be prevented. In this uncommon and novel contest for the presidency of fifty millions of people, the little orange

El Dorado of the South was one of the battle-fields, and Governor Brown was the Democratic leader in that crucial struggle, and the cynosure of the nation's gaze. Well did he bear the Democratic standard in this unique conflict. It involved the purity of the ballot, the revelation of fraud, and the vindication of the popular will. Through all the tedious and trying enquiry Governor Brown remained the unpaid advocate of public welfare and political honesty, with consummate ability, sleepless vigilance, and determined boldness, defending the right and exposing the wrong. His speech was a masterpiece, analyzing the law with unerring astuteness, and discussing the principles with profound power.

Governor Starnes was the Republican executive of the State, claiming the right to decide who were chosen electors. The courts were sought to enjoin him from using this dangerous authority. With the decision in the hands of a partisan Governor there was no chance for the Democrats whatever. The Electoral Board had one Democratic member, and therefore there was more possibility of fair dealing before the Board than before the Executive. Governor Brown was chosen to make the argument before the court against the jurisdiction of the Executive in the matter, and his strong and conclusive argument given below settled this part of the case.

THE FLORIDA CONTEST.

TEXT OF EX-GOVERNOR JOSEPH E. BROWN'S ARGUMENT.

" May it please your Honor :

" As His Excellency, the Governor, in his answer in this case has not disclaimed jurisdiction over the subject of canvassing the election returns, and has used no expression which amounts to a pledge, or which precludes him

from assuming the jurisdiction at any future day, it is proper to discuss the question as to his

LEGAL POWERS IN THE PREMISES.

"In the division of labor in this case, the duty has been assigned me of submitting an argument which I have prepared with some care, showing that the Governor of the State of Florida has no power given by any statute of the State, or other known law, to canvass the returns of the election for electors of President and Vice-President of the United States, and determine the result. That power, as we contend, is vested by the statutes of the State in the Board of State canvassers composed of the attorney-general, the secretary of state and the comptroller of public accounts; and if vested in them, then the Governor has no right to exercise it, and an attempt to do so would be an assumption of power not conferred upon him. The question of the jurisdiction of your Honor to grant an injunction restraining His Excellency from the assumption or usurpation of such a power has been and will be fully discussed by other counsel who also appear for complainants in this bill. I shall confine myself to a discussion of the questions above mentioned.

"And at the expense of being somewhat tedious, I shall take up the Constitution and laws of the United States bearing upon this question, and such of the statutes of the State of Florida as may be necessary to a proper understanding of it, and discuss them. And I shall incorporate in this argument such liberal quotations from the statutes as may be necessary to show the current of legislation on this subject, and such as may lead us—construing the whole together—to a safe conclusion on the question of disputed jurisdiction. In discussing this question it may be very important to inquire whether or not an elector of president and vice-president is a State officer.

"The Constitution of the United States, article 2, section 1, paragraph 2, declares that, 'each State shall appoint in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in Congress.'

"Article 12, amendments, declares that the electors shall meet in their respective States and vote by ballot for President and Vice-President, and sets forth the manner of conducting such election by ballot. It then provides for a meeting of the two Houses of Congress, when the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted, and the person having the greatest number of votes for President shall be President, if such number be a majority of the whole number of electors appointed, and if no person have such majority, then from the persons having the highest numbers, not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member

or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice.

ELECTORS STATE OFFICERS.

"Now it seems very clear from these provisions of the Constitution of the United States that the electors of the several States who meet in their respective States act as the officers or representatives of their State, and not as officers of the Federal Government; and this conclusion is greatly strengthened by the provision made for the election of President, in the event no one has received a majority of all the electors appointed. In that case, it is not the officers of the Federal Government, nor the representatives of the Federal Government who choose the President; but the House of Representatives make the choice, the representation from each State having one vote. In other words, each of the respective States by its representation in the House of Representatives in Congress casts one vote for President. In that case, the State of Florida has the same weight in the election of President as the State of New York. The election, in other words, is made by States, each speaking through its representation in the House of Representatives in the Congress of the United States, and not by the officers or agents of the Federal Government. And it is necessary that two-thirds of all the States shall vote to make an election; and a majority of all the States is necessary to a choice.

"The Constitution of the United States, therefore, leaves no room for reasonable doubt that the electors for President and Vice-President are the officers of their respective States, and that they act for their respective States in casting the vote for President and Vice-President, and in case of a failure of the electoral colleges to make a choice, the States themselves, each having equal weight with another, through their representation in the House of Representatives of the United States, proceed to elect a President. So much for the constitutional provisions.

SEARCHING THE STATUTES.

"The Act of Congress provides that electors of President and Vice-President shall be appointed in each State, on the Tuesday next after the first Monday in November in every fourth year succeeding every election of a President and Vice-President. Revised statutes of the United States, section 131, section 133 declares that: 'Each State may by law provide for the filling of any vacancies which may occur in its college of electors, when such college meets to give its electoral vote.' Section 134 declares that, 'whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the Legislature of such State may direct.' Section 135 declares that, 'the electors for each State shall meet and give their votes upon the first Wednesday in December in

the year in which they are appointed, at such place in each State as the Legislature of such State may direct.' Section 136 declares that, 'it shall be the duty of the executive of each State to cause three lists of the names of the electors of such States to be made and certified, and to be delivered to the electors on or before the day on which they are required by the preceding section to meet.'

"An examination of these general provisions of the statutes of the United States seems to show very conclusively that the electors of President and Vice-President are in every case, and under every contingency, to be chosen by the respective States, that they are the officers or representatives of such States—that they are not authorized to meet anywhere except within the limits of their respective States; and in case of a vacancy in the electoral college of any State, it is left to the State to provide for the filling of such vacancy. And in case any State has held an election at the proper time and failed to make a choice of electors on the day prescribed, her electors are to be appointed on a subsequent day in such manner as the Legislature of such State may direct. And it is

WORTHY OF NOTE,

in this connection, that the electors are not directed either by the Constitution of the United States or the laws of the United States to be appointed by popular election in the State; they are not, therefore, the representatives of the people of the United States, nor are they in the strict sense the representatives of the people of the State, but they are the representatives of their respective States. The State is left to determine for itself whether they shall be appointed by popular election, at which all the qualified voters in the State shall have a voice, or whether it will appoint them in some other manner. The State has a perfect right to appoint them in any manner directed by its Legislature. Prior to the late war the State of South Carolina appointed its electors by its Legislature. The State of Florida in the election of 1868 appointed its electors by the Legislature and not by popular vote. The State of Colorado in the present election appointed its electors by its Legislature, and not by the popular vote.

"The electors are, therefore, unquestionably the representatives or officers of the State. They are appointed by the State to represent the State in casting the vote of the State. They are compelled to meet in the State, and they are paid by the State, and they are therefore officers of the State.

"To show more clearly the distinction between State and Federal officers, it is only necessary to say that such provisions are made by the laws of the United States as to secure the appointment of all Federal officers independently of the action or non-action of the respective States. But if a State should not choose to vote for President and Vice-President and should pass no law providing for the appointment of electors, and should make no such appointment, no power exists in the Federal Government to make any such

appointment. If the electors were officers of the Federal Government, it would not be in the power of the State to prevent their appointment; but being officers of the State Government, it is left with each State to appoint them or not, as she may think proper. Her failure to make the appointment simply deprives her of her vote in the election of President and Vice-President. And she can exercise such right or refuse to exercise it at her discretion, independently, and without accountability to the Federal Government or any other power, which is

WHOLLY INCOMPATIBLE

with the idea that the electors are Federal officers or Representatives of the Federal Government.

"By reference to the act passed by the Legislature of Florida in 1846, it will be seen that the Governor, sixty days prior to the time provided by said act for the election of electors of President and Vice-President of the United States, was required, by proclamation to be inserted in at least one newspaper published at the seat of government, and such other papers printed in the State as he might see fit, to give notice of the time of such election, and of the number of electors of President and Vice-President to be chosen. And the persons qualified to vote for members of the House of Representatives of the General Assembly of the State (who were at that time confined exclusively to the white race), on the thirty-fourth day preceding the first Wednesday in December, unless it should be on Saturday or Sunday, and in that event on the succeeding Monday, in the year 1848, and in every fourth succeeding year, were to assemble at the place designated for holding elections, and were to proceed to elect a number of electors of President and Vice-President equal to the number of Senators and Representatives the State might be entitled to in Congress, etc.

"And it was made the duty of the inspectors of elections at the different precincts in each county to hold the elections in the manner prescribed, and to seal up the poll-book of the election, which was to be carried within two days after the election to the sheriff of the county, who was required to attend two days succeeding the election at the court-house for the purpose of receiving the poll-books.

"The sheriff upon receiving the poll-books was to administer an oath or affirmation to each inspector who delivered said poll-book, and receipt for the same. And it was the duty of the sheriff to deliver, or cause the same to be delivered, to the secretary of state at his office within twenty-five days after the election.

THE RETURNING BOARDS.

"The poll-books, on the 26th day, unless it was Sunday, and in that event on the 27th day after the election, as the statute provides, shall be opened by the secretary of state in the presence of the comptroller-general and the treasurer of the State, and such sheriffs as may choose to attend; the secretary of

state shall cause the poll-books as they are opened to be read aloud, and shall make out a fair abstract of the names of the persons voted for, and the number of the votes given to each. He shall make out and sign a certificate containing in figures and words written at full length the number of votes given in the State for electors of President and Vice-President of the United States; the names of the persons for whom such votes were given, and the number of votes to each, which certificate shall be recorded by the secretary in his office, and published in one or more of the newspapers printed in the State for the information of the public; and the Governor shall forthwith make out for the number of persons to be elected, and who have the greatest number of votes, certificates of their being duly elected electors of President and Vice-President of the United States, and transmit by special messenger or other safe conveyance the proper certificate to each person so elected. Provision is then made for the election in case of a tie, by lot, and the balance of the statute provides for the mode of filling vacancies in case of the absence of any elector, and for the manner of casting the vote, etc., and also for the election of electors in case of a vacancy in the offices of President and Vice-President.

"As will subsequently appear, the whole election system of this State has been changed since the act of 1846, and the present plan is so much in conflict with said act that no portion of it probably can be said to be still of force. But if the provision of said act in reference to the canvass of the electoral vote be still in force, then it is very clear that the power of canvassing is not given by said act to the Governor, but to the secretary of state, who was to make the canvass in the presence of the comptroller-general and treasurer, and such sheriffs whose duty it was to bring up the poll-books from the different counties as might choose to be present. And upon the fact being ascertained who was elected, when the vote was canvassed by the secretary of state, it was made his duty to make out and sign a certificate showing who was so elected, to record the same in his office, and to publish the result in one or more of the newspapers printed in the State, for the information of the public; and it was then made the duty of the Governor, upon such canvass and publication made by the secretary of state, to give the certificates as is required by the Act of Congress and the statute of the State to the persons elected, not upon his own canvass of the votes nor upon a canvass of votes made in his presence, but upon that made by the secretary of state in the presence of the officers above mentioned.

THE GOVERNOR'S DUTIES.

"It is further to be noted that, under the Act of 1846, the Governor was required to give sixty days' notice preceding the election, which it is not pretended was done by him in this case. In other words, neither the Governor nor the State House officers are now acting under the act of 1846, but under the acts passed in 1808 and in 1872 respectively.

"The act of 1872 in its whole machinery differs from the act of 1846 upon which we are informed those who claim jurisdiction over this question for the governor predicate, at least in part, their argument.

"In the first place, the electors are not the same. Then only free white men were electors; now the colored race as well as the white race are electors. Then the sixty days' notice was required to be published by the governor; now it is the duty of the secretary of state to make it out and deliver it to the sheriff of each county, stating in said notice what offices and vacancies are to be filled at such general election in the State, county, or district and to cause a copy to be published at least sixty days.

"Then the inspectors of election could only be free white men, now they may be white or colored. Then they were appointed by the governor, now they are appointed by the county commissioners who are appointed by the governor. Then the inspectors of election at the different precincts or polling places returned the result to the sheriff not appointed by the governor, at the county site, within two days after the election; now they are given six days to return it, not to the sheriff, who is now appointed by the governor, but to the county judge, the clerk of the district court, and a justice of the peace, all appointed by the governor. Then the sheriff had twenty-five days within which to deliver the poll-book to the secretary of state, under penalty of one thousand dollars. Now thirty-five days are allowed for the returns to reach the office of secretary of state and governor. We might give numerous other particulars, in which the act of 1868 differs from and is inconsistent with that of 1846; but as the act of 1846 gave the canvass to the secretary of state, and not to the governor, we think it unnecessary. We will next notice the

CHANGES MADE IN THE CANVASSING BOARD

by the act of 1868. As already shown, the act of 1846 gave the secretary of state power, in the presence of the officers already mentioned, to canvass the vote. The 28th section of the act of 1868 provides that, on the first Tuesday next after the fourth Monday in November, next after any general election, or sooner if the returns shall have been received from the several counties, the secretary of state, attorney-general, and comptroller, or any two of them, shall meet at the office of secretary of state pursuant to notice to be given by the secretary of state (or in his absence or inability to attend, by the governor,) and proceed to canvass the returns of such election and declare who shall have been elected by the highest number of votes to any office as shown by said returns.

"Section 30 declares, 'When any person shall be elected to the office of elector of president or vice-president, or representative in Congress, the governor shall make out, sign and cause to be sealed with the seal of the State, and transmit to such person a certificate of such election.'

"Thus it will be seen that the act of 1868 substitutes the secretary of

state, attorney-general, and comptroller as the canvassing board, in place of the secretary of state in the act of 1846, and requires a certificate from them of the election, similar to that made by the secretary of state under the act of 1846.

"And by section 30, of the act of 1868, it is made the duty of the governor to make out and sign, and cause to be sealed with the seal of the State, and transmit to the person elected a certificate of his election, just as he was required to do under the act of 1846, under the canvass made by the secretary of state in presence of his associate officers. Under that statute, the secretary of state made the canvass in presence of the treasurer and comptroller-general; under the act of 1868 the secretary of state, comptroller, and attorney-general make the canvass, and the governor in each case issues the certificate, upon the canvass as made and certified by them. The acts of 1846 and 1868 are, therefore, in complete harmony on this point.

THE ACT OF 1871

repeals the 23th section of the act of 1868, above quoted, and re-enacts it, substantially changing the canvassing board by substituting the clerk of the supreme court for the comptroller, and making the three officers, or any two of them with any other member of the Cabinet whom they may designate, the canvassing board, and with the further change, that the canvass shall be on the 35th day after the holding of any election, general or special, that may hereafter be held for any State officer, member of the Legislature or representative in Congress, or sooner if the returns shall have been received from the several counties wherein elections have been held. The third section of

THE ACT OF 1872

repeals the act of 1871 above referred to. The first, second and fourth sections are still of force, and are the last acts passed by the Legislature upon that subject. Section one enacts as follows:—

"The first section of an act to provide for the registration of electors and the holding of elections, approved August 6, 1868, is hereby amended so as to read as follows: A general election shall be held in the several counties in this State on Tuesday next succeeding the first Monday in November, in each year, in which elections are required to be held for an election of such of the following officers and representatives as are to be elected, that is to say: a governor, lieutenant-governor, representative in Congress, electors of president and vice-president, State senators and members of the Assembly and such county officers as are to be elected as provided by Constitution and laws."

"SEC. 2. The second section of said act is hereby amended so as to read as follows: 'a governor, lieutenant-governor, and electors of president and vice-president shall be elected in the year 1872 and every fourth year thereafter; senators in the districts designated by odd numbers in the year 1872 and

every fourth year thereafter ; senators in the districts designated by even numbers, in the year 1874 and every four years thereafter ; a representative in Congress and members of the General Assembly, in the year 1872 and every two years thereafter ; constables and such other county officers, as are to be elected in the year 1872 and every two years thereafter.'

"SEC. 4. On the 35th day after the holding of any general or special election for any State officer, member of Legislature, or representative in Congress, or sooner, if the returns shall have been received from the several counties wherein elections shall have been held, the secretary of state, attorney-general, and comptroller of public accounts, or any of them together with any other member of the Cabinet who may be designated by them, shall meet at the office of the secretary of state, pursuant to a notice to be given by the secretary of state, and form a board of State canvassers and proceed to canvass the returns of said election, and determine and declare who shall have been elected to any such office, or as such member as shown by such returns. If any such returns shall be shown, or shall appear to be so irregular, false, or fraudulent that the board shall be unable to determine the true vote for such officer or member, they shall so certify, and shall not include such return in their determination and declaration ; and the secretary of state shall preserve and file in his office all such returns, together with such other documents and papers as may have been received by him or any of said board of canvassers. The said board shall make and sign a certificate containing in words written in full length the whole number of votes given for each officer, the number of votes given for each person, for each office, and for member of the Legislature, and therein declare the result ; which certificate shall be recorded in the office of the secretary of state, in a book to be kept for that purpose, and the secretary of state shall cause a certified copy of such certificate to be published once in one or more newspapers printed at the seat of government.'

THE EFFECT OF THE STATUTE.

"Now we understand that the advocates of the assumption of jurisdiction by the governor put much stress upon the language of section four just quoted, which gives the board of canvassers jurisdiction in case of any State officer, member of the Legislature, or representative in Congress. It is claimed that this does not give the board jurisdiction in the case of electors of president and vice-president, because they are not again mentioned. They are mentioned in the first and second sections of the act of 1872 just quoted, together with the other State officers. In the fourth section they are not expressly mentioned, nor is governor, lieutenant-governor, constable, or other county officers, which are all mentioned in sections one and two. The office of governor, lieutenant-governor, elector of president and vice-president, constable and county officer, which are all embraced in sections one and two,

are included in section four under the general designation of 'State officer.' As governor, lieutenant-governor, county officer, constable, etc., are all omitted by name in the fourth section, and are all included under the general term 'State officer,' so is elector of president and vice-president, which is repeated with them in each of the previous sections also omitted because included under said general designation.

"As we think we have clearly shown in the commencement of this argument that a presidential elector is a State officer, we see no room for any doubt that the term 'State officer,' in the fourth section gives express jurisdiction in case of presidential elector to the canvassing board. Indeed, we think that part of the case too plain to require further argument.

"We understand the assumption of jurisdiction by the governor in this case is also claimed on the ground of necessity. Pardon us for saying that this is the plea by which usurpation is always attempted to be justified, and we trust your honor will not find it necessary to countenance it in this case. The claim set up for the governor, as we understand it, is that the act of 1872 gives to the canvassing board thirty-five days within which to complete the canvass, unless the returns from the several counties which held the elections are sooner in. And it is argued, as the thirty-five days may extend beyond the first Wednesday in December, the time fixed for the electoral college to meet, that the State may lose her vote unless the governor assume the jurisdiction. This cannot be true, for the reason that the canvassing board is authorized to proceed as soon as the returns are in from the several counties where the elections were held, and if

THE GOVERNOR ASSUMES THE JURISDICTION

he will not be authorized to proceed and issue the certificate upon the returns from only a part of the counties of the State. There is no reason why the canvassing board cannot take up the returns, canvass them and declare the result at as early a day as the governor can properly do it. There is, therefore, no danger that the vote of the State will be lost, unless the inspectors of the election in some of the counties, selected by the county canvassers, appointed by the governor, have failed to do their duty in sending up the returns to the county canvassing board; or unless the county canvassing board, all of whom were appointed by the governor, fail to do their duty in sending up the returns to the secretary of state's office. As the law presumes that these officers will do their duty, and as the Democratic party is doing all in its power to urge them to send up the returns as early as possible, and is anxious for a fair canvass of the returns at the earliest day, when it can be done, there is, we trust, nothing to apprehend on the score of a loss of the vote of the State. There certainly cannot be if the governor's appointees discharge the duties imposed upon them by the statute, and their failure to discharge it would be no reason why he should assume authority not conferred upon him either by the act of 1846, or any other statute of the State.

"We beg to submit for the consideration of your Honor, one other view of the question which seems to us to be conclusive why the governor should neither consent, nor be permitted to exercise even a doubtful jurisdiction in this case. As already stated, the governor appoints all the county commissioners in every county in Florida, and has the power to fill all vacancies. The county commissioners appoint each board of election inspectors at each precinct in each county in this State. These inspectors are the managers of election at the precincts or polling places. They are virtually his appointees, because they are appointed by the commissioners appointed by the governor. They make the returns to the county canvassing board composed, as already stated, of the county judge, the clerk of the district court of the county, and one justice of the peace called in by them. The governor appoints each of these officers with the power of removal and of filling vacancies. He has the power to remove the justice of the peace at his mere caprice, at any time, and fill his vacancy. If a justice of the peace should be called in and should refuse to make such certificate as would be agreeable to him, his commission would be in the governor's power if he chose to revoke it. Under these circumstances it is not unnatural to suppose that he had greatly the advantage of his democratic opponents in conducting the election in the different counties, and that he has a control over the elections and returns that no Democrat can have.

THE GOVERNOR'S POWER.

"The governor is also himself the candidate of his party for re-election to the office of governor which he now holds, and if he assumes jurisdiction to canvass the votes by opening all the returns for the purpose of determining who are elected electors of president and vice-president, his decision would naturally have an undue weight with the State canvassing board who are to canvass the returns of his own election. The State canvassing board is also composed of the appointees of the governor of the State. One of them voted for Governor Tilden for president. The other two warmly supported Governor Hayes, and are not only appointees of the executive of this State, but the political and personal friends of the governor himself. They constitute a majority of the canvassing board in the governor's election; and if any fraudulent or improper returns should be counted by him, by mistake or otherwise, in determining who are elected electors of president and vice-president, it is scarcely to be presumed that his political friends on the State canvassing board, who have great respect for his opinions, when they come to canvass the governor's election, would overrule his decision in reference to the returns upon which he had already passed. Again, it gives him the advantage of opening all the returns; and while he is canvassing the votes for elector of president and vice-president, he can look into the question as to how the vote stands between him and the democratic candidate for governor; while the latter would have no such access to that part of the returns

and would not likely be permitted to inspect them. This would give the governor an undue and unjust advantage in any matter connected with a contest, as to the returns in any county, as he would know in advance the exact state of the returns sent up to his office, while his opponent would not have that knowledge. For these reasons we trust, even if your Honor should consider the question a doubtful one as to the power of the governor, that you will give the benefit of your doubt in favor of the State canvassing board, where the Democrats have one representative and the Republicans two, and refuse to permit the governor to assume a jurisdiction which it seems to us it would be most unfair and unjust under the circumstances for him to exercise.

IMPORTANCE OF A FAIR COUNT.

"It is not impossible, it is even probable, that the result of the presidential election may turn upon the vote of this State. The whole people of the United States are therefore interested in a correct canvass of the vote of the State. As already stated, the Democratic party have one member of the canvassing board, the Republicans have two. It would seem to be nothing but just and fair to the great Democratic party of the Union, which the result shows is an overwhelming majority of the legal voters of the United States, that they should not be deprived of at least one member of the board that is to determine so important a result. If you should, upon a doubtful construction of the law, (and we deny that there is room for a reasonable doubt in favor of the governor's jurisdiction,) permit him to set aside the board and take upon himself the canvass of the returns, when he is known to be the Republican candidate for governor, with the whole election machinery of the State in his hands, it is not to be expected that such a course would contribute to the cause of peace, or would allay excitement or suspicion of unfairness, when his decision in favor of his own candidate for the presidency should be announced. The rights, and possibly the peace and prosperity, of more than forty millions of people may hang upon the result; and we ask you, in the name of justice and fair dealing, to leave the canvass in the hands of those where the law has placed it, and not to permit the governor to usurp a jurisdiction which would at least cause an overwhelming majority of the voters of the United States to believe, whether true or not, that it was done for a definite object and with intent to produce a result which could not be produced upon a fair count before the board legally appointed to discharge that duty.

IN CONCLUSION,

permit me to make a single suggestion in reference to the equity which these complainants have in their favor, in their application for mandamus against the State canvassing board. The law gives the board thirty-five days after the election within which to make the canvass, unless the returns from the several counties which held elections are sooner in. It is contended by the

learned counsel for the defence that this is a discretion left with the board, and that they can take till the last day, if they think proper, before they commence the canvass; that is, they may wait till the last return is in, if all should come in, before the end of the thirty-five days; and if not, until the last day of the thirty-five.

"Now, what are the facts in this case? Outrageous frauds are charged in the elections in one or more of the counties, and their character is such that the complainants who allege the fraud will have to produce evidence and possibly send for witnesses to make good their allegation. The other side will then most probably desire to be heard by evidence. Such an investigation in the case of a single county might take the greater part of the week if fairly and patiently heard. Where there may be several such cases to hear, a considerable length of time must be consumed by each, if there is a fair investigation. What the complainants in this case desire is, that your Honor will direct by mandamus that the board proceed with the canvass. This will give them time to hear evidence, and deliberate and decide justly in each case where there is a contest about the fairness of the election. And in case of any irregularities in the returns, when they are opened, would give time to send couriers to the counties from which such defective returns might be sent up, and, if possible, have the proper correction made.

"But if they exercise their extreme discretion and do not commence till the last day, or till within the last two or three days, it will amount to a practical denial of justice, as it will be an impossibility to hear the evidence and determine the questions of fraud that are to be raised within the time that will then be allowed by law for the Board to sit. The refusal, therefore, to commence the canvass in time to allow a fair investigation, is

A PRACTICAL DENIAL

of justice, and a great abuse of the discretion vested in the Board of Canvassers, and, as I understand it, this court has the power and it is its duty to control any person or officer over whom it has jurisdiction in the exercise of a discretion when that discretion is being abused, and the abuse of the discretion without the intervention of the court will work irreparable mischief. Such must be the case if the discretion of the Board is not controlled in this instance, or if they do not consent without the control of your Honor to proceed with the canvass. If the Governor were to renounce all jurisdiction over the subject matter, and the balance of the Returning Board will consent, as the attorney-general has consented, to proceed with the canvass, giving time for a full examination of the evidence, and a just and fair decision in the case of each county where there is a contest, then there would be no reason for the interposition of the order of your Honor in the premises. If they should continue to refuse to proceed, and your Honor should not compel them, there is, as we think, irreparable mischief resulting to the great detriment of the whole American people."

The attention of the whole country was directed to this strange trial, in which the chief magistracy of the Republic pivoted upon the fair vote and the just count of this little State of Florida; and the central figure was our strong clear-headed Georgian, who thus bore upon his shoulders the cause of a nation.

Notwithstanding all the effort that was made by Governor Brown and the other distinguished gentlemen acting together, and the clear demonstration of the right, the two Republican members of the returning board to whom the issue was referred, having a majority, outvoted the single Democrat and gave the result in favor of the Hayes electors while every one knew the Tilden electors had won the election.

Through the long years of the decade from 1870 to 1880, Governor Brown pursued the even tenor of his way, steadily correcting political misconception of his course upon reconstruction, by his life of consistent purity and integrity; and impressing upon the great public heart the sincerity of his motives, and the courage of his conduct. More than this, there began to grow an all-pervading desire to utilize for the public service the phenomenal abilities of this powerful statesman. The public appreciation of him manifested itself in spontaneously calling him to lead all great movements of a practical character. He has been for years and is still the president of the board of education of the city of Atlanta, that governs the finest free school system in the South. He was elected the first president of the International Cotton Exposition, and finally resigned the position on account of pressure of other matters, to the regret of the Exposition directors. In May, 1880, General John B. Gordon, United States senator from Georgia, resigned his high

place to which he had just been re-elected for a second term of six years. He had been desiring to leave public life with its meager emoluments, and push his private fortunes. He was tendered a valuable opening in a railroad enterprise in Oregon, which he was compelled to accept immediately. He resigned from the Senate therefore in obedience to the necessity, though the session was in a few weeks of its end. He privately notified Governor Colquitt of his purpose, and had some correspondence by letter and telegraph in regard to the matter, the object of which on the part of Governor Colquitt was to dissuade General Gordon from the resignation. This proved unavailing, and Governor Colquitt gave an earnest reflection to the choice of a proper person to appoint in his place. In this delicate duty the Governor gave a thoughtful consideration to the public interest and especially to the advancement of a correct public sentiment in connection with the relations of the sections. Realizing that the cause of constitutional government had suffered from the prevailing misapprehensions North as to Southern opinion affected by the late civil war, Governor Colquitt deemed that an earnest and practical effort should be made by Southern leaders and men in authority to give such a direction to affairs as would restore the normal relations between the once-divided sections.

This question was so closely connected with the material prosperity of the South, with the very scheme of our society, the security of property and the supremacy of correct political principles, that in the thoughtful judgment of our wisest men it was necessary to subserve this end. Governor Colquitt deemed that the appointment of such a man as Governor Brown, who had differed with the prevailing Southern policy on reconstruction, yet who was

in hearty accord with Southern sentiment now, would be on the line of a liberal policy that would have its beneficial effect. Governor Brown was the most illustrious exponent of that class of public men who bravely incurred public odium for the public welfare; and his appointment by a representative Democratic Southern Administration would be the most practical demonstration that the prejudices of sectional strife were allayed.

Superadded to this statesmanlike consideration, it was conceded that Governor Brown possessed pre-eminent ability for the distinguished trust; of all the men in the State no one was more fitted by capacity, experience, reputation, wealth and service for being United States senator. Even his opponents admitted his superlative qualifications for the place.

But this was not all. There were urgent reasons of domestic State policy at that time for such an appointment. The supremacy and unity of the Democratic party were seriously threatened by a growing spirit of independencism, that had captured two of the white congressional districts, and was menacing others. The hardy yeomanry of the mountains were the men most disaffected, and they were friends to Governor Brown and to be conciliated by his appointment.

Under these most potential inducements Governor Colquitt tendered the trust to Governor Brown. It was necessary to have Georgia represented for the brief remainder of the session. Governor Brown had a lengthy conference with Governor Colquitt, in which the whole matter was fully discussed, and the responsibility pressed upon him, but he declined the trust, stating that he could not accept it. Governor Colquitt urged him to consider it and so the tender was held in abeyance. Governor

Brown went to Nashville, and while he was there, General Gordon's resignation was made final, and Governor Colquitt telegraphed him his appointment, and urgently pressed him not to decline, and Governor Brown sent back by telegraph his acceptance.

The publication of the matter was the signal for an almost unparalleled public agitation. The enemies of the three gentlemen, Governor Colquitt, Governor Brown and Senator Gordon, seized promptly upon the incident to make an assault upon the three that intended their political annihilation. The most absurd and groundless charges were made against them. In view of the facts, the storm of crimination that raged was a literal tempest in a teapot. It was the only time in Governor Colquitt's eventful administration that he felt distrust of public opinion. The howl was so furious and the misrepresentation so implacable, that he feared for once that his opponents would succeed in poisoning public sentiment. In the counties of Pike and Muscogee public meetings were held and the matter denounced. Ridiculous accusations flooded the State of a trade in which it was boldly and distinctly affirmed that General Gordon as the price of resigning was to get the presidency of the State Road, for which Governor Brown was to be made senator, while by this bargain Governor Colquitt obtained the powerful support of Governor Brown in his future struggles.

It would be impossible to conceive a sillier suspicion. The very character of these gentlemen should have protected them from even an intimation that they could be capable of a bargain over a high public trust. The accusation was falsified by every specification of the indictment itself. General Gordon was not made president of the State Road. Governor Brown was already a sup-

porter of Governor Colquitt. Governor Colquitt tried hard to induce General Gordon not to resign, and surprised General Gordon as much as any one else by his choice. Looking back at the storm in the cool light of after days, the flurry has the aspect of the farcical, and men wonder that such a fuss could be made for so long a time on so flimsy a basis. The incident illustrates what violent freaks mark the current of politics.

Senator Brown was sworn in under his appointment as United States senator on the 26th day of May, 1880, and the adjournment of Congress took place on the 16th of June. His senatorial service lasted three weeks only, but he became in the short time an admitted leader in the illustrious body, requiring no novitiate, but at once overstepping all probation and experience in this greatest deliberative assembly of the country, and assuming a foremost place. It was a daring intellectual endeavor, but it demonstrated the marvellous adaptability of his uncommon brain power. His long training in important public affairs, both as legislator and executive, had fitted him for any arena of statesmanship. The way in which he impressed himself upon national legislation and the public thought in his three weeks of senatorial duty was a conclusive vindication of Governor Colquitt's wisdom in the appointment.

Senator Brown delivered three speeches in this time that placed him among the recognized leaders of debate. They were peculiarly seasonable efforts, and marked by that blending of boldness and practicality that characterize the public utterances of this gentleman, and that always command the popular consideration, making his influence so potential.

The leading speech was made on the 12th of June,

1880, upon the Mexican pension bill. He wove into this effort the most effective rebuke that has been given since the war, to what has been popularly called the "bloody shirt" business of ingeniously making war prejudices against the South the weapon of political victory by the Republican party. An amendment to exclude Confederate soldiers from Mexican or Indian war pensions afforded the ready senator the opportunity which he used with masterly tact. Frequently before in debate our Southern members in Congress had tried to quiet this troublesome issue, but had as a general thing made matters worse under the adroit retorts of the Republican debaters. But Senator Brown met the issue successfully, and it was a rare controversial triumph, as well as turning the tables in a contest that had gone uniformly against us of the South. Senator Brown argued against excluding the Southern soldiers, and was subjected to a volley of the customary and hitherto effective queries by such men as Senators Conkling, Blaine, Kirkwood, Teller and Ingalls, who kept the debate lively with thrusts about disunion and secession. Senator Brown responded with prompt felicity, retorting in every case in such a manner as to silence his questioner and leaving the advantage unanswerably with him. He not only carried his point, but he demonstrated his ability to cope in hand to hand discussion and vanquish the strongest debaters of the Senate, and he took immediate rank, both over the country and in the Senate, among the leaders of the body, the most intellectual and influential Senators of long experience. This and other speeches of Senator Brown are given in full in the appendix of this volume.

Another speech made at this session was in advocacy of enlarging the appropriations to our Southern harbors.

It is always a difficult thing to increase appropriations over the report of the committee. His practical speech on this subject obtained an additional \$10,000 for Brunswick. He made a strong effort to get \$65,000 more for Savannah, and nearly succeeded. Many senators of both political parties, Mr. Blaine, Voorhees, Bayard, Thurman, Davis and Vance commended in warm terms the ability of his effort, while Senator Blaine put his praise in a humorous expression that was heartily appreciated for its witty good feeling—he had never heard so fine a speech from so young a senator.

A very important service of his, so far as Georgia was concerned, was the detection and defeat of a serious provision in the census bill that if passed would have operated to deprive Georgia of the number of representatives in Congress to which she was entitled upon the basis of population. Georgia has a law that disqualifies a man from voting who has not paid his taxes, and there were thousands of such disqualified voters in the State when the census was taken. The objectionable provision required the census enumerators to report such voters and deduct them from the number of people that were to be counted in apportioning representation in Congress. Georgia under this unjust rule would have lost at least one representative to which her inhabitants entitled her; Governor Brown saw and stopped this injustice.

Senator Brown's phenomenal service in his little three weeks' term conclusively established his fitness for the great trust that had been unsolicitedly tendered him by Governor Colquitt. This appointment was made the main issue in the gubernatorial campaign, and it can be readily understood that Senator Brown threw himself into this heated contest with all the fervor of his deter-

mined nature, aided by all of his marvellous and experienced skill. It was understood to be Brown, Gordon and Colquitt against the field. The issue was clearly defined. There never was in our State politics a sharper contest. Usually the convention settles conflicts in the party. In this case the convention merely defined the antagonism in the party organization the more clearly, and the election was an aggressive continuation of the undetermined struggle. In the convention it was anybody to beat Colquitt, and in the election the opposition rallied to Mr. Thomas N. Norwood. After the most animated campaign in half a century, Governor Colquitt, aided by Senator Brown, was re-elected by almost a two-thirds majority.

But in the gubernatorial campaign was blended an issue vital to Senator Brown. His appointment as United States Senator by Governor Colquitt unless ratified by the people was an empty compliment, so far as the public will was concerned. The same election that decided who was to be governor was also to choose a Legislature that had the selection of a successor to Senator Brown. His own election, therefore, as a sequence to his appointment was at stake. There were peculiar considerations involved in this contest. Years before Senator Brown had met the only political defeat of his life under circumstances of unparalleled public misconception of his motives and conduct, in a conflict for this very trust. Certainly a less positive and stern-willed person than he would have felt the inspiration of reversing that defeat. But with his combative nature and intense individuality the occasion was perhaps the supreme crisis of his life, involving a concentration of all vital issues, concerning alike the compensation of unmerited obloquy

and the redemption of his career from the most cruel injustice a public man ever suffered. His and Governor Colquitt's opponents made his appointment and election the main issue of the campaign. Senator Brown accepted it joyfully, and bent his powerful energies and great abilities to the contest. Had the issue not have been tendered him, he would have offered it. He was resolved to have a crucial test of public sentiment upon his course, under the light of reason and justice.

His opponent in this race was General Alexander R. Lawton, a worthy rival in every respect, a gentleman of unblemished character and acknowledged abilities. He had held many important positions involving responsible public trusts. He was State senator in 1859, president of the State Democratic convention of 1860, colonel of the first regiment of Georgia volunteers at the beginning of the war, and conducted the seizure of Fort Pulaski under Governor Brown's orders, brigadier-general in the Confederate army, quartermaster-general of the Confederate Government, elector for Tilden and Hendricks and president of the electoral college, member of the constitutional convention of 1877, delegate to the National Democratic convention in Cincinnati in 1880, and chairman of the Georgia delegation. In all of these trusts he had sustained himself so as to carry the growing confidence and respect of the people. He came from a section of Georgia, too, that had strong claims for a senator on account of its wealth and intelligence. General Lawton took part actively in the canvass for Governor, making several strong speeches against Governor Colquitt's re-election. He was presented to the State in complimentary terms as the candidate of Chatham county for the United States Senate.

The election resulted in the overwhelming success of Governor Colquitt, and the choice of a large majority of members of the Legislature favorable to Governor Brown for senator. Notwithstanding this fact, the canvass for senator still continued. General Lawton wrote a letter on the subject. Governor Brown, on the night before the election, made a public address in De Gives' Opera House. The building was packed from pit to dome with ladies and gentlemen and the entire General Assembly. The desire to hear this citizen was eager and universal. Hundreds were unable to gain admission to the building. General Lawton himself stood in the gallery, listening to his powerful opponent. It was such an occasion as occurs in the lives of few men. It was the turning-point of a rare career, the pivot of a life whose eventfulness has had few parallels. It was less the great office that seemed in his grasp, for he was too much used to great trusts, and of too philosophical a temperament to experience undue elation at the honor, than it was that at last the majestic tribunal of public opinion, after a long and cruel misconception of his public course, was about to correct its erroneous verdict and redeem its injustice. He had suffered as few do. There had been a crucifixion by public sentiment such as it is rare for any man to survive, much less to conquer. He had lived to witness the complete redemption of his name and fame. There clustered around his slender figure and calm face, with its gray beard that attested the meridian of life past, memories vital with momentous history; and there loomed before him a vista of illustrious public usefulness and private distinction, hinging upon this pivotal occasion. Well might the great popular heart throb in unison with the dramatic suggestions of this occurrence and this historic figure.

The people as well as he felt the lesson of the crisis, and gave a hearty sympathy in the wonderful triumph.

His speech was the best of his life. It was an effort of supreme audacity and power. It was exceedingly calm, philosophical, and argumentative, and yet it was the most daring and absolute adhesion to the logic of his political conduct. There was no trimming in it, no court-ing favor, no apologies for the past, no concession to prejudice or sentiment; but instead an unflinching justification of motive and act, a resolute grounding of himself, as it were, upon the integrity and wisdom of his past, and a fearless enunciation of what he conceived to be the liberal statesmanship for the Southern future. A more timid man would have hesitated as a piece of politic diplomacy at his declaration of views so far in advance of public sentiment. The vote had yet to be taken, and the voters were before him. He never faltered in the candid statement of progressive ideas far beyond the present. He planted himself upon his convictions, and spoke the truth as he saw it, regardless of consequences.

There were two striking episodes in his speech that impressed the public with tremendous effect, and carried a magical weight. When he read the letter from General Robert E. Lee, written in 1867 contemporaneously with his own utterances, counselling the same acquiescence in reconstruction that he had done, for the same reasons, the effect upon the audience was indescribable. Such an indorsement from such a source almost had the start-ling authority of a miracle. Again, at the conclusion of his speech, a telegram was handed to him from General Henry R. Jackson, bearing testimony to the fact that before he took his unpopular position upon reconstruction they had conversed upon the subject, and Governor

Brown had communicated to him his disinterested motive for the public good, and his voluntary acceptance of popular obloquy in the furtherance of his patriotic mission. It was a brace of peerless witnesses that he thus presented in proof of his sincerity and honor. The dead and the living in their most chivalrous types were offered in evidence of an integrity and patriotism that had been so harshly misjudged. The two blended a singularly potential vindication,—the great and revered Lee, of his policy; the stainless and truthful Jackson, of his integrity. No man dare doubt the wise patriotism of the one or the crystal truth of the other. These spontaneous and impregnable confirmations of Governor Brown came and wrought their irresistible spell of conviction, and destroyed the last possibility of denial, setting forever at rest the long existing and merciless shadow upon a good man's fame and usefulness.

This extraordinary and powerful speech is given in full, as it was delivered on the night of the fifteenth day of November, 1880.

*"Gentlemen of the General Assembly, Ladies and Gentlemen:—*I appear before you as a candidate for the high office of United States senator from our proud old Commonwealth. I had not intended to make any public address pending this canvass. But as my honorable opponent, General Lawton, has thought proper to appear before you and deliver a lengthy address, the burden of which has been an assault upon my political character and record, I trust you will agree with me that it is proper that I should be heard in reply.

*"*When I learned that my opponent intended to address you, I naturally came to the conclusion that he would lay down some platform, or announce some great line of policy that he intended to pursue for the promotion of the best interests of the State and of the whole country, if he should be called to the high position to which he aspires. But I was greatly disappointed when I read a synopsis of his speech, to find that he had not thought it necessary to favor us with his platform, or an outline of the policy intended to be pursued by him. Instead of this, he turns back to the past,

and drags from their grave the carcasses of the dead issues which divided and embittered our people in years gone by. And he seeks your suffrage not upon anything that he promises in the future. Indeed, I was forced to the conclusion, after learning the points in his speech, that he sought to rise by his assaults upon my record rather than upon his own merits.

"And just here permit me to say, that, while I greatly regret the necessity of recurring to these old, dead issues, I do not shrink from a comparison of records with General Lawton. I am not afraid to discuss the issues involved in the reconstruction period, as I think it is easy to demonstrate that the advice I then gave, if it had been heeded, and the course I then took, if it had been followed, would have been the best for Georgia and the whole South; still, I know there are honest differences of opinion upon this question. And I know that able and patriotic statesmen took a different view of it at the time; and the questions were discussed earnestly, ably, and in some instances bitterly. Much was said on each side that it were better it had not been said. It was a time of passion and prejudice, when the worst feelings of our nature were aroused and brought into active play. We had just lost our cause. From being a proud and wealthy people, we had been reduced to poverty. Every family had lost a father, a brother, a husband, or a friend. Our conquerors had dictated terms that seemed to us to be hard and even unreasonable. And probably the most unpalatable part of the whole batch of measures was the provision in the fourteenth constitutional amendment that disfranchised our leaders from holding office. Laboring under these provoking circumstances, and in the midst of this high excitement, it was not strange that we had divisions, and that bitterness and even vituperation were brought into the campaign. But this period of bitterness has passed; the public mind has been quieted; our passions have subsided; we have gone actively to work; we have learned lessons of economy; we have entered again upon a state of prosperity; and patriotic men on both sides had hoped that the dead issues would remain buried out of sight, and that we should no longer be divided or disturbed by them. The times now seem to require that all patriotic citizens of Georgia and the South should stand together, hand in hand, and labor earnestly and faithfully to promote union, harmony, and the public good.

"What public service, then, could my honorable opponent think he was rendering to the country by tearing the scabs off the healing wounds and seeking again to arouse the bitter prejudices and passions of twelve years ago? Why did he not think proper to do this at any time within the last five or six years, when he was not a candidate for United States senator? Why did he wait until he made up his mind to enter the lists as a competitor for this distinguished position before he opened his batteries upon those who differed with him during the reconstruction period? Have we not had enough bitterness? Is it for the public good that strife and wrangling should continue perpetually? Cannot my opponent and those with whom

he acts realize the fact that we live in a new era, that war has produced almost a revolution in our labor system and has engrafted new provisions on the political system? Is it impossible for him to conform to the present system under which we live, and to unite with those who labor to make the best out of it in future?

"Why does my opponent arraign me for infidelity to Georgia and the South because I differed with him and the school of politicians to which he belongs on the reconstruction question and acted with the reconstruction party? Is a man a traitor for not going with the party he has formerly acted with, if that party abandon the platform it has always stood upon, plants itself upon a new platform which his judgment tells him is impracticable and impossible to be carried into execution?

"The platform of the Democratic party, so called in 1868, was not the platform upon which that party stood prior to that time. Take General Blair's Broadhead letter, which secured his nomination to the office of vice-president, and the platform which together declared the reconstruction acts revolutionary, unconstitutional, null and void; and that it was the duty of the President of the United States to so declare them, and to refuse to execute them, and to disband the governments established in the Southern States under the reconstruction acts by force. This would have been another revolution, ending in the further effusion of blood. There was no possible chance of success on that platform. No principle of Democracy required me to stand upon it. Democrats and the former opponents of Democracy divided upon it according to their own judgment. I refused to stand upon it because I knew it could result in no good, and must, if carried out to its legitimate results, end in revolution and blood. Other patriotic statesmen thought they saw in it a mode of escape from the awkward dilemma in which we were placed; and with as much honesty of purpose as I claim for myself they espoused the cause of opposition to it earnestly and actively. Were they traitors to the old Democratic platform because they planted the party upon a new platform that turned out not practicable? They were honest; they were earnest; they were patriotic. Was I a traitor, then, because I refused to stand upon a platform that I believed would result in utter failure and do harm? Did I go over to the enemy, as my opponent charges, when I acted with the party that sustained the reconstruction measures? If so, the whole Democratic party and the whole people of the South have since gone over to the enemy, with the exception of a few Bourbons who can never accept the situation. When Messrs. Stephens and Toombs and other great Whig leaders of the South abandoned the Whig party, and aided in disbanding it, and came over to the old Democratic party, were they traitors because they acted with the Democracy whom they had so long fought? Did we treat them as such and refuse to give them office? And would it be considered a proper issue in this campaign, for me to take up their records, and discuss what might appear to be seeming inconsistencies in their course in

that regard? What would it have to do with the present or the future welfare of the country? Are we to pursue each other with relentless fury on account of past differences and never unite for the public good? In 1860 some of us were ardent secessionists; others were Union men: shall we declare perpetual war against one another because we differed twenty years ago? Shall a Union man now say the secessionist was a traitor because he left the Union ranks and went with the secessionists? Or shall a secessionist say that a Union man is a traitor because he acted with the Union party and did not go with the secessionists? If an original Union man were now a candidate for senator, would it be proper for me as an original secessionist to make war upon him, and arraign him upon his record, and place my claim to election to the United States senate upon the inconsistencies of that record? It would be as just as the war that my opponent makes upon me.

"But he refers to my honored colleague in the Senate, and says that I said Mr. Hill is the grandest orator in the Senate. I did say so, and I here repeat it. But he says that Hill almost exhausted that oratory in his denunciation of me during the reconstruction campaign. That may be true. Mr. Hill is an ardent, earnest, patriotic man. He believed he was right. He hoped that we might get rid of the reconstruction measures through the agency of the Democratic party; and though he had never been a Democrat in his life, he came with the Democrats, and acted with them, and was one of their ablest leaders in Georgia. Was he a traitor to the old Whig or American party, because he came over to the Democracy on that occasion, and acted with them in opposition to the reconstruction measures? Clearly not. But there is this striking difference between Mr. Hill and my opponent: Two years later Mr. Hill saw that the hopes of getting rid of the reconstruction measures, for which he had so earnestly and honestly labored, was delusive; and he had the magnanimity and the honesty to come out and publish his views to the world, and advise acquiescence and the recognition of the rights of the colored race.

"And from that day to this Mr. Hill has advised peace and harmony. He has never gone back and torn open the old wounds, nor sought to do it, as my opponent now seeks to do. He fought the reconstruction measures as long as he saw any chance to succeed, and when there was no hope of success he abandoned the platform, as did the Democratic party, and planted himself upon the reconstruction measures. Was he a traitor to the Democratic party, when, in 1870, he advised the acceptance of the reconstruction measures and the recognition of the rights of the colored race? And must he in future be arraigned for this patriotic act? If not, how was I a traitor for doing the same thing two years sooner?

"If the attack made upon me by my opponent is just, then he is the proper subject of arraignment. Mr. Hill is able to recognize an accomplished fact, and he is a man of mould large enough to advise the people to bury the

bitterness of the past, and to act in harmony upon the reconstruction platform in future. In this he is ten years ahead of General Lawton.

"In his letter of 1870, December 8th, two years before the Democratic party had abandoned the platform of 1868, Mr. Hill says: 'I have been driven to the conclusion that these three amendments are in fact, and will be held in law, fixed principles of the Constitution, as binding upon the States and people as the original provisions of that instrument. . . . It is the duty of every good citizen to abide by and obey the Constitution and laws as they exist, precisely as if he had co-operated in establishing and enacting them.' Again he says: 'I respectfully suggest that the time has arrived when duty does not require nor interest seek a continuance of the divisions on the principles and events which have led to our present condition.'

"And in his speech in Atlanta, in 1872, he says: 'I confess before this audience to-night, that while my heart has ever been right, while I have ever advocated that which I believed to be true at the time, yet in the midst of party contest I have often indulged in personal allusions and personal depreciations, which I regret and would gladly recall.' Again he says, in reference to the notes on the situation: 'There are some personal allusions of a very severe character which I regret and would recall.' Again he adds: 'I am free to say that I am in favor of universal political amnesty, state and federal.' How striking the contrast between these utterances of the great orator, and the intolerant course of my opponent!

"When did my honorable opponent give this good advice? For twelve years has he nursed his wrath, and still abates nothing of his animosity against those who differ with him.

"But my opponent thinks we should not have accepted so early, while the graves of our dead heroes were yet fresh. What length of time was it necessary to give for the grass to spread over the graves of our lamented heroes who fell in our glorious cause, before we could accept the reconstruction measures without disrespect to them?

"As the Democracy has been planted upon the reconstruction platform ever since 1872, my opponent must admit that it was no disrespect to their memories to accept those measures in 1872. Why did he not tell us the exact time between 1868 and 1872 when it ceased to be disrespectful to them for us to acquiesce in the inevitable? His views and mine of the reverence and respect we owe to their memories may be widely different. I feel that that respect and that reverence are due them from us while we live, and from our posterity after us. I had two brothers who fell during that struggle, one of them while leading his regiment in the charge upon a Union battery almost in sight of where I now stand.

"Shall I cease to respect their memories, or do I dishonor them because I accept the terms dictated by our conqueror after they have fallen? General Lawton may think that we could cease to pay reverence to the memories of our heroes after 1872. I say that respect and that reverence should be per-

petual in the future. If so, taking his premises and carrying them out to their logical sequence, we must forever fight the reconstruction measures or we will dishonor them.

"But I was not alone in the advice I gave or the opinion I entertained as to the propriety of accepting the reconstruction measures. What was that advice? It was substantially that the conquerors had dictated the terms, and that we were obliged to accept them; that the conventions mentioned in the Sherman bill must be held; that our people were placed in a position where they had no power whatever to control that question. And I advised them to acquiesce; to go to the polls and vote for the best men who were eligible; that they might go to the convention and make us the best constitution we could get, as we might be obliged to live under it for years to come. I also recommended acquiescence in the action of the convention of our State, and advised our people against divisions and to a prompt acceptance of the terms dictated by our conqueror. This was the only way to get representation back into Congress and to lift the hand of the conqueror from us. All remember very well that this was the substance of my advice.

"Now I desire to read here a letter from a distinguished gentleman, to show that others whose opinions were entitled to respect entertained the same views and gave like advice. As I consider the letter an important one, I beg your careful attention while I read it. It is as follows:

"*My dear Major:* I have read with the attention the subject demanded the article enclosed in your letter of the 23d ult. I think there can be no doubt in the minds of those who reflect, that conventions must be held in the Southern States under the Sherman bill, that the people are placed in a position where no choice in the matter is left them, and it is the duty of all who may be entitled to vote to attend the polls and endeavor to elect the best available men to represent them and act for the interests of their States. The division of the people into parties is greatly to be reprehended, and ought to be avoided by the willingness on the part of every one to yield minor points, in order to secure those which are essential to the general welfare. Wisdom dictates that the decision of the conventions should be cheerfully submitted to by the citizens of each State, who should unite in carrying out its decrees in good faith and kind feeling."

[At this point some one in the audience cried out, "That's Joe Brown's talk!" The speaker replied, "It is very much like it; just the same in substance, though I did not write it." He then resumed the reading of the letter, as follows:]

"As I am relieved from the necessity of directing how to act, I think it is fair to leave to those who have to bear the responsibility the decision of the questions involved, without embarrassing them with the opinions of those who do not feel this responsibility. Under these circumstances, and for reasons which I am sure you will understand, I have great reluctance to obtrude my opinions upon the public, and must therefore request that you

will not publish my letter, which has been written out of my kind regard for yourself.'

"This letter," said the speaker, "is dated Lexington, Va., April 3, 1867, less than one month after the date of my letter advising acquiescence in the reconstruction measures. It was dictated by the brain and penned by the hand of that immortal hero, Robert E. Lee! I hold the original now in my hand, in the handwriting of the old hero himself."

[At this point the demonstrations of applause were overwhelming, and bouquets of flowers were thrown from every part of the audience to the stage and showered down upon Governor Brown with a profusion that we have seldom witnessed. After bowing and returning his thanks to the ladies, he continued as follows:]

"I have not given the name of the gentleman to whom the letter is addressed, as he does not at present desire his name made public. He is an able man; was a gallant Confederate officer, who did valiant service under the very eye of General Lee himself, and had the confidence of that great man to the fullest extent. As General Lee was a military chieftain then retired, and had not figured as a statesman, the reasons are very obvious why he should not desire to give advice to the public, unless it was asked for in some authoritative way. It was but natural, therefore, that he should have requested that the letter be not published. But as more than thirteen years have passed since the letter was written, and as time has demonstrated the wisdom of the advice given by General Lee, and he has long since departed this life, certainly no injustice can be done to his memory by giving to the public the wise and noble sentiments then expressed by him. Another reason why it should be published is, that it shows that the old hero was of good judgment." [This brought down the house with great applause.]

"But my opponent says that the State of Georgia, by resisting my policy and the reconstruction measures, got out from under the heel of the oppressor sooner than South Carolina, Florida, and Louisiana who took my advice. This is a very extraordinary statement. What was my advice? It was the same given by General Lee: that the white people of Georgia and the South accept the reconstruction measures at once; that they all go to the ballot-box and vote for delegates to the convention which was to make the Constitution under which they and their children must live; and that they try to get as good a Constitution as possible, and get their representatives back into Congress in both branches at the earliest day possible. What was the advice of General Lawton on that occasion? It was that the white people of the South fold their arms in dignified silence and refuse to take any part whatever in the election to be held for members of the convention to form a Constitution under which they must live for years to come, but to give that up to the negroes, the carpet-baggers, and the scalawags. South Carolina, Florida, and Louisiana adopted his advice. The white people folded their arms in great dignity, and said, 'We will touch not, taste not,

handle not the unclean thing.' They refused to go to the polls, and they gave up their conventions entirely into the hands of the classes above mentioned. What was the result? The negroes and the carpet-baggers framed their constitutions; tied them hand and foot; filled their legislative halls with majorities of ignorant colored men, and crowded their jury boxes with ignorance; and the white people labored under this curse till the beginning of the year 1877. For nearly ten years were they passing through this terrible ordeal. Not so in Georgia. It was estimated at the time that some thirty thousand white men in Georgia took the advice given by those of us who accepted the reconstruction measures, and went to the polls and voted for good men as delegates to the convention. We sent to the convention the lamented Judge Parrott, who presided over it, and who was a most valuable power in securing a good Constitution. The people also elected as members of that convention, Dr. Miller, Colonel Trammell, Judge McKay, James D. Waddell, Colonel Thomas P. Saffold, of Morgan; Albert Foster, the honored father of the honorable representative from Morgan county in this assembly; Madison Bell, of Banks; Judge Bigby, of Coweta, now United States district attorney; Colonel Marler, since solicitor-general of the western circuit; Mr. Dews, of Baker, who has since been a member of the Legislature; Mr. Field, of Murray, who has filled the same place; Mr. Ford, of Floyd; Dr. Foster, of Paulding; Mr. McWhorter, of Green; the Hon. David Irwin, of Cobb; the Hon. A. W. Holcomb, of Milton; the Hon. Wesley Shropshire, of Chattooga; the Hon. John H. Flynn, of this city; the Hon. Amos T. Akerman, who, though a Northern man, has spent the most of his life in Georgia, and who also rendered valuable services in the convention. Other native white men were elected who had devoted their lives to the best interests of Georgia. These men inside, with the assistance of some of us outside, notwithstanding the great majority of radical men in the convention, secured for the people of Georgia a constitution under which they were soon restored to the line of prosperity. The intelligence of Georgia soon had control of the Legislature, her courts, and her juries. The world knows the result. We were through with the reconstruction period much sooner than any one of the States above mentioned, who rejected my advice and took the advice of my opponent. And to-day, while the credit of those States in the market is unfortunately at a low point, the credit of Georgia stands as high in the market as any State's in the Union. She floats without difficulty a four per cent. bond when she needs money to meet her engagements.

"On the contrary, if South Carolina, Florida, and Louisiana had followed my advice in 1868, and sent such of their white leaders as were not disfranchised as delegates to their conventions, they would have secured constitutions which would have restored them to Democratic rule within four years. And in 1876, instead of having radical returning boards at their command to count out Mr. Tilden, who was legally elected president, they would have elected Democratic electors, and there would have been no question about

the right of the Democratic candidate to his seat in the presidential chair; and we would now have passed through four years of Democratic rule, whereas we are just entering upon four more years of Republican rule. Judge ye, whether the advice of my opponent as taken by these States was better than mine.

"But my opponent says, in substance, if I could not agree with him and those with whom he acted in 1868, I should not have acted with the reconstruction party; but I should have folded my arms in silence and waited until they had made the experiment. No, I could not have done this properly. The people of Georgia had honored me; they had raised me from an humble position and placed me at the helm of state. They had stood by me during all the dark periods through which we had passed. I had reached a point, at the end of the struggle, where I was out of office, and I was a private citizen only; and if I had been simply selfish in my views, I might have folded my arms and stood still and given no advice, and retained my popularity. But I did not think I could do this and act in good faith. All that I was, and all that I am, I owe to Georgia; and when her citizens called on me for advice in that critical period, though but a private citizen, I felt that it was my bounden duty to give it. I knew very well the responsibility which I incurred. I thought it was possible they might follow my advice and save themselves great trouble and great suffering. But I feared also at the time that the probabilities were that passion and prejudice were running too high for reason to resume her sway. Hence I stated to confidential friends my motives in taking the position I did, that it was to try to save Georgia from very great suffering, into which I feared she was about to be precipitated; and that, if our people failed to take my advice, from having been one of the most popular men in the State, I should become one of the most unpopular from the Potomac to the Rio Grande. With this great hazard fully in view, forgetful of self-interest, I raised the note of warning, and gave them honestly my opinion as to the course it was best for them to pursue. My opponent folded his arms at the time and did nothing, and advised inaction. I leave it to you to say whether his censure is well founded or gratuitous.

"But my opponent in substance assumes the further position, that if we had refused to submit to the reconstruction measures, and had all stood out to the last, foreign powers might have intervened under international law and saved us from this bitter pill. Now, with all due deference, it does seem to me that this idea is perfectly utopian. When we were at the high tide of our success after each important victory, we had men abroad to importune foreign powers to recognize us even as belligerents, and they declined to do so because their treaty obligations to the United States did not permit them to recognize us as occupying any other relation than that of rebels to the government of the United States; and whatever sympathy they might have felt for us, they declined to recognize us as entitled even to belligerent rights.

If then foreign powers would take no notice of us during the struggle when we were flushed with victory, was it reasonable to suppose after we had surrendered, and there was no hanging, no slaughter, no bloodshed, our president imprisoned but his life not imperilled, that they would then come in and intermeddle in the affairs of the United States, and say, 'You shall not dictate terms here that the South think are hard and unreasonable; we will interfere with our sword and stop it'? What sane man can for a moment believe that there was even the remotest probability of foreign intervention to save us from the evils of reconstruction? It does seem to me that my honorable opponent is hard run for a pretext upon which to base his objections to me, when he arraigns me for supporting the reconstruction measures on the ground that we might have looked for foreign intervention if we had held out. I do not at least think he would venture to offer such an argument before the country from the high arena of the Senate of the United States, to which he aspires.

"But he makes another grave charge, that while I was an ardent original secessionist and did all I could to advance the cause of secession, I took issue during the war with President Davis on certain questions where I thought there were great principles involved. Doubtless he refers to the controversy between me and President Davis on conscription. We went into the contest, as I understood it, to maintain State sovereignty and slavery; and I think I demonstrated during that controversy that the Conscript Act was unconstitutional and subversive of the very principles of State sovereignty which lay at the foundation of our political fabric. That discussion, however, was on questions of constitutional law and principle, and it was not permitted to embarrass Mr. Davis practically. I threw no obstacles in the way of the execution of the Conscript Acts by his officers in Georgia, where they showed any respect to law or the rights of the State. He never made a requisition upon me during the whole period of the war for troops of the class furnished by the other States, that I did not promptly respond with a larger number than he asked for.

"And when Sherman's army invaded the soil of Georgia, I called out even the officers of the State and organized them into regiments and battalions and turned them over to that glorious old hero, Joseph E. Johnston, who was in command of the Confederate armies, where they did efficient and valuable service, recognized by him in flattering terms. I carried the number up to nearly ten thousand of the class which was not subject to conscription, and for which the President had no right to call, and which was not furnished by the other States. After General Johnston had been unwisely removed, I continued them under General Hood. And when the secretary of war of the Confederate States made requisition upon me for them—that part of them report to General Hood and part of them to the commandant at Charleston while they were in the trenches at Atlanta defending this city, I refused to send them away or to turn them over on Confederate requisition.

They belonged to the State : they were a class of our citizens including her officers and the old men up to 55 and the boys down to 16 that other States did not send to the field and that the President had no right under any law of Congress to demand of me. Nor did he demand that class by requisition made upon the governor of any other State in the Confederacy. How then did I obstruct the cause of the Confederacy? I gave it all the troops it called for; all it was entitled to, and when our own State was invaded I gave it nearly ten thousand of a class that it had no right under its own laws to call for. Ask General Joseph E. Johnston whether I was untrue to the Confederacy. He was in command at the time, and he will tell you that I did all that any governor could have done under the circumstances to aid him.

"He is reported to have said that I did more for the cause than all the other governors of the Confederacy combined.

"General Lawton seems to forget, however, while attacking me on this point, that he attacks the great commoner, Mr. Stephens, who was vice-president of the Confederate States, and General Toombs, the ablest advocate of his election to the Senate, who fully co-operated with me in my controversy with the Confederate States authorities on this question, and sustained me on every point. We acted in perfect harmony. Were Stephens and Toombs untrue to the Confederate cause? The same evidence that would convict me of this charge by my opponent, convicts them also. Perhaps this argument proves a little too much for him.

"But it would seem reasonable to suppose that the Georgians in the army who met the enemy in the field of battle, and who endured all the hardships of the camp, were the best judges of whether their governor in his treatment to them and in his responses to the calls of the Confederacy had been faithful. In 1863 after my controversy with President Davis, when I was a candidate for the fourth time for the office of governor, the citizens of Georgia within legal age, who were in the army, were authorized to vote wherever they might be. As you will remember, the Hon. Joshua Hill, formerly a Union man, and the Hon. Timothy Furlow, an ardent secessionist, were both put in the field against me. As the Constitution required that the successful candidate should have a majority over all the other candidates, it was thought I would be defeated in this way, and the election thrown into the General Assembly. And the home vote at the time would have come near defeating me. The stay-at-home men, those owning fifteen negroes, who were at home to look after their plantations, and those in the other pursuits of life that remained at home, voted for me by a small majority. But when the army vote came in and the ballot of the men who bore the musket in the front of the enemy was heard from, they placed me over 8000 ahead of both my competitors. Did the army deem my course as untrue to the Confederacy? Who were better judges of the propriety of it than the soldiers who endured the hardships of the camp and the field?

"Time will not permit me to say more in reference to my course

during the war. I claim that nothing I did during that period conflicts in any way with my duty or present position as a Democrat. I never voted anything but a Democratic ticket in my life prior to 1868. Upon the old Democratic platform I always stood, and to its principles I was always true. In 1868 the Democratic party did not stand upon its former platform, and it certainly did not stand upon its present platform. In 1868 it declared the reconstruction measures to be revolutionary, unconstitutional, null and void, for it nominated Blair upon his Broadhead letter. During that period I refused to stand upon that platform. I knew that General Grant, who had been the successful leader of the Union armies and had received the sword of that immortal hero, General Lee, was entitled according to usage to the presidency, and he would certainly get it. He had been sent by President Johnson to the South to report upon our condition, and had done all he could to mitigate the excitement, and reported as favorably as he could. He was evidently disposed to turn the warm side to the South, and I thought it was our best policy to agree with the adversary quickly, and take up the hero and support him, making no issue with him. This would have given us representation in Congress immediately and placed us upon a much higher level. And if we had acted wisely, all the probabilities are that General Grant, true to his original political faith, might at the next race have accepted the nomination from the Democracy of the Union, as he had been up to that time an original Democrat. My opponent is reported to have said in his speech that I was the only man who knew that. It has been on more than one occasion published that General Grant himself said so, and it has never been denied by any one. He never cast any but a Democratic vote prior to the time he went into the presidential chair. And I think my opponent is probably the only man in the country, of his intelligence, who did not know it. Not only was General Grant, who received Lee's sword, in favor of conciliation up to that time, but it is now a well known fact that General Lee favored acceptance.

"The Democrats made the experiment on the platform of 1868, and made a great failure. They saw then that it was impossible to stand longer upon that platform. And in 1872 they came squarely upon the reconstruction platform upon which I had stood in 1868, when I supported Grant, and they nominated Horace Greeley as their standard bearer. Contrast the records of Grant and Greeley and say who made the biggest leap from Democracy—I in voting for Grant in 1868, or my opponent when he voted for Greeley in 1872. But as Greeley was placed upon the reconstruction platform where I had stood, and to which the inevitable pointed as the future policy of the country, I stood still upon the platform and voted for Greeley. I did not abandon it because the Democracy came to it. I did not refuse to vote for Greeley, objectionable as he was, for he was nominated by the party of my preference, who stood upon the platform where I stood. And from that day to this I have constantly acted with the Democratic party.

"You may examine all my utterances in reference to the reconstruction measures, and you will find that the tenor of them all was that I accepted in 1868 the reconstruction measures because there was no way to get rid of them, not because I approved of them, but I admitted the hardship. I took them as matter of necessity only, and not as matter of choice. I felt no attachment to them. I had no devotion for them. But in 1876, when the Democratic convention of the Union met in St. Louis and nominated Tilden, having found that the mistake that they had made in 1868 had so prejudiced the country against them that it was still denied that they had acquiesced in the reconstruction measures in good faith, they determined to make the acquiescence strong enough that it could no longer be questioned, and they there affirmed their devotion to the Constitution with the amendments. The fact is, I was never devoted to them, and there I could not heartily stand upon the Democratic platform, but as my conqueror dictated them, and I accepted his terms in good faith, I had accepted them; I had sworn to support them, and I intend in good faith to do so.

"But, as you all know, the result of that campaign was that Mr. Tilden, who was elected President, was counted out by the returning boards in the States of Florida and Louisiana, where the advice of my honorable opponent had prevailed during the period of reconstruction. When it was found that an effort would be made to count us out, Mr. Tilden did not question my Democracy, but through a friend from his residence he telegraphed and requested that I go to Florida to aid him in securing a fair count. I went there and stayed and labored faithfully for more than a month, at my own expense, to secure such count, part of the time upon a sick bed where I had to have books brought to my bedside and prepare arguments with my secretary sitting by my bed. We failed there because a majority of the board were radicals, and no showing that could be made could control or influence them. I did not have the control of matters there. That was assumed by a gentleman from New York, who claimed to be the special agent of Mr. Tilden. My opponent was also requested to go to Florida, but if I recollect correctly he stayed but a day or two. I believe it was said he had private business which called him home.

"But soon afterwards Congress appointed a committee of investigation to go and look further into the matter and take testimony. I had returned home, and was lying upon a sick bed, unable to do anything. And at this point Mr. Hewitt, the chairman of the executive committee of the Democratic party of the United States, telegraphed me and requested me to go to Florida and take control of our case there. I would cheerfully have gone back and done so, but my bodily infirmity and suffering rendered it impossible at the time. If I am not to be relied on as a Democrat and cannot be trusted, and my opponent is a better Democrat than I am, why did not Mr. Tilden and Mr. Hewitt invite General Lawton to go there and take charge of the cause?

"But let us come down a little further. During the present year the Democratic convention of the Union met at Cincinnati and nominated that grand and gallant soldier, Winfield S. Hancock, and placed him upon a platform fully recognizing the reconstruction acts. In his letter of acceptance, he too lays down the position distinctly that 'the 13th, 14th and 15th amendments to the Constitution of the United States, embodying the results of the war for the Union are inviolable. If called to the presidency, I should deem it my duty to resist with all my power any attempt to impair or evade the full force and effect of the Constitution, which, in every article, section and amendment, is the supreme law of the land.' Toombs says they are still null and void, and he speaks for General Lawton and is now grooming him for his race. [Laughter and applause.] Hancock says they embody the results of the war, and are the supreme law of the land. General Lee says: 'Wisdom also dictates that the decision of the conventions should be cheerfully submitted to by the citizens of each State, who should unite in carrying out its decrees in good faith and kind feeling.' Which will you follow, Toombs and Lawton, or Lee and Hancock? [Applause.]

"Both the Democracy and their great leader then plant themselves fully and firmly upon the Constitutional amendments, which were the substance of the reconstruction acts. During the recent campaign the chairman of the Democratic committee of the Union, Senator Barnum, wrote and urged me to go to Indiana to aid in the campaign for Hancock and English. Under the circumstances I could not do so, which I very much regretted. If I am not a Democrat to be trusted and would not in the Senate be a true exponent of the principles of the Democratic party why did he not ask General Lawton, my opponent, to go?

"I have not a sentiment or an instinct that is not in accord with the best interests of Georgia and of the country; and I shall be one of the last men to furl the banner of the Democratic party and lay it away. My family and my property and all that is dear to me are in Georgia. The bones of my ancestors rest here, and I expect to be buried in her soil and leave my posterity upon it. Why then should I betray her? When have I ever been untrue to her interests? I shall always pay my devotions at her shrine; I shall always be ready to maintain her interests and to stand by her honor, come what may.

"From what I have already stated I think it unnecessary that I should further argue the point, that the Democratic party stands to-day fairly and squarely upon the reconstruction platform; that it vies with the Republican party in the expression of its devotion to that platform, and to the constitutional amendments upon which it is based. Which was the worse, for me to be untrue to the Democratic party in 1868 when it neither stood upon its old platform nor upon its present platform, or for my opponent to be untrue to it now, as would seem manifest from his speech before you? What was the staple of that speech? It was an arraignment of me for ac-

cepting the reconstruction acts and standing upon that platform and defending acquiescence in them in 1868. He now arraigns me bitterly for having done so. Does it not raise a fair inference, therefore, that his heart is not now right upon these measures, and in his inmost bosom that he is not a friend to them and does not fully acquiesce? What, think you, would have been the effect of the speech delivered here the other night, if he had gone to Indiana and delivered it there during the campaign? What will now be the effect of it upon the fortunes of the Democratic party north? The Republicans will seize it everywhere, and say that General Lawton admits that Governor Brown has ability, that he is mentally qualified to represent Georgia in the Senate, but he denounces him as untrustworthy because he supported the reconstruction measures in 1868, and acted with the reconstruction party then. And if you elect him upon that speech, to the Senate, will it not be an acknowledgment of what has been so often charged by the Republicans, that the acceptance of the reconstruction measures by the Democracy of the South is insincere and is all a sham and a cheat?

"After the 4th of March next the President will be Republican, the House of Representatives will be controlled by the Republicans, and the Senate will most probably be a tie, when you count on the uncertainty of one or two members who have heretofore been Democrats, but were not elected as Democrats. Suppose you elect General Lawton to the Senate, and he enters the body under these circumstances, how much influence will he have, either with the Republicans of the Senate or with the Northern Democrats? Will not the latter say: 'You are untrue to the very principles upon which we stand here. You are a recruit to the brigade of Southern brigadiers here, and the worst fire-eater among them. You denounce and would ostracise those who twelve years ago consented to stand where we now stand.' What could my opponent do for Georgia under these circumstances? I leave wise legislators who have to make the selection to judge.

"But I have already occupied too much time in reply to the assaults made upon me by my opponent on account of reconstruction. I think it time that issue were buried. I think it is time that all Georgians should imitate the example of Senator Hill, and lay those things behind them; bury them deep in the grave, and look forward; and harmonize and fraternize for the future advancement of the State. Let the old Whig and Democratic issues, the secession and Union issues, and the reconstruction issues and all the past bitterness and difference of opinion be buried; and let us all unite and move forward harmoniously in the new era as citizens of the new South for the promotion of the good of the whole country.

"My opponent lays down the rule that it is the duty of the Legislature to select a man for the Senate who represents the sentiment of Georgia, and that seems to be his platform—the sentiment of Georgia! What is sentiment? The dictionary defines it to be: First, sentimentality, feeling, emotion; second, thought, notion, opinion, judgment. Suppose we take the lat-

ter part of the definition, and my opponent's meaning is that you should select a man who represents the opinions of Georgia. I accept the issue. I confess I may not be a proper representative of a certain sentimentality that there is in this State. There is a class of people in this State whose fathers a generation or two back possessed either wealth or distinction. They or their descendants were large slave holders, and they were usually classed as the aristocracy of the South. They are sometimes termed by the common people, 'the kid-glove aristocracy.' Either fortunately or unfortunately for me I never belonged to that class. I was born of humbler parentage. I had to work my own way in the world. I had to rise, if I rose at all, by my own exertions. I was brought up among the working class; rose from the mass of the people. They took me by the hand and sustained me, because they believed I was true to them and was one of them. And they have never forsaken me in any instance where the popular voice could be heard. The aristocracy that I refer to above, and I do it with great deference, for I have great respect for them, never believed that anyone not born of wealthy parentage should participate in the affairs of government; that belongs, according to their idea, to the privileged class. And when I rose up to some position, and the people determined to put me higher, and to place the helm of state in my hands, some of these would-be rulers doubtless regarded me as an illegitimate in the political family of the State; they probably have few sentiments in common with me. They have led lives of leisure and elegance, indulging in festivities, discussing fine wines, wearing fine apparel, and keeping company with their own class. I have had to deal with the realities of life. I have had to labor all my life—first to obtain position, and then to do my duty in position. I have not had time, therefore, to cultivate the sort of sensibility or sentiment entertained by this class, and I confess very candidly that I am not a proper representative of that sentiment. If the people of Georgia think that a man should be sent to the Senate to represent that sentiment of the old ruling class, as they assume to be, and not the sentiment of the great mass of the people of the State, then I admit that my honorable opponent is a fit representative.

"But let us return to the definition. One of the meanings of the word is, opinion, judgment. Do I represent the opinion of the people of Georgia? I think that question has lately been decided and a verdict rendered in an unquestionable form. Governor Colquitt appointed me to fill the vacancy in the Senate of the United States. He was arraigned for that act by my opponent and those who acted with him all over Georgia. I will not go into the facts in reference to the nomination or the campaign, further than to say that when my opponent concluded to run for the Senate he took the field in opposition to Governor Colquitt, and the great leading issue that he made against him was that he had appointed me to the Senate. While he admitted my ability, he was reported to have assailed me bitterly, though he has since said that the reports did him injustice; and he spent a great deal of every

speech made by him in an attempt to convince the people that the act was a great mistake. In a word, he made that the prominent issue; and in every county, I believe, except Chatham, where he delivered a speech and took that position, arraigning Governor Colquitt's administration and arraigning me, the people responded by giving an overwhelming majority to Colquitt. I claim that I have a right to participate in that verdict. Not only did my opponent make the issue, but General Toombs, the ablest intellect among those who oppose me, also made it distinctly in his speeches. He denied that there was anything in the other charges made by the Norwood party against Governor Colquitt, but placed the opposition to Colquitt distinctly and alone upon the ground that he appointed me senator. Then the ablest man of the opposition in Georgia, and my opponent himself, both made the issue, distinct, clear and unequivocal, as to whether I was the proper man to go to the Senate. And with the attack made upon Governor Colquitt for my appointment and the issue fairly rendered, the people responded in our behalf, by a majority of nearly fifty-five thousand. General Lawton made the point on me that I was not the proper man to go to the Senate; he arraigned the governor for appointing me a member of the Senate. The people replied and expressed their sentiment. In other words they gave their opinion, their judgment; and they said by this enormous majority, that the general was mistaken; that I and not he represented the popular sentiment of Georgia. The voters of General Toombs's own county decided in favor of Governor Colquitt and myself by over 700 majority.

"But they may say that the people did not take up the issue tendered by General Lawton and General Toombs, and that Governor Colquitt's majority is no just index as to what my majority would have been. I do not think any candid man, however, who hears me will contend for this position. But suppose my opponent plants himself upon it, then let us make a little comparison of the relative votes given to me and Governor Colquitt in a few counties where the issue was made. In the county of Fulton, which was claimed largely for Norwood prior to the election, a ticket composed of the present sitting members was run, favoring my election; in other words a Brown ticket. Another ticket was run opposed to my election, part of its members very bitterly opposed, headed by an able lawyer and eloquent legislator of this city. The issue was made up between the two tickets. Governor Colquitt carried the county by 230 majority I believe, and the lowest man on the Brown ticket carried it by more than a thousand majority over Colonel Hoge, the highest man on the other ticket. Take the adjoining county of Cobb. There my old and honored friend, General Hansell, and Mr. Orr, his colleague, ran openly as the Brown ticket. Their opponents were known as the anti-Brown ticket. Governor Colquitt carried the county by a little over 30 majority; Hansell and Orr carried it by over 700 majority. Take the next county adjoining to that, Bartow, and there were, as I understand it, five candidates for the Legislature; four of them were Brown men. One,

an old member of the Legislature, was anti-Brown. The county went over 600 majority for Norwood, and two of the Brown candidates were elected to the Legislature. Take the county of Coweta. It was agreed there that the senatorial contest should not come in to disturb the election of members, and they would run but one ticket. And they nominated the sitting members, Wilkerson and Post, with the understanding that the voters would be asked to indorse their tickets "Brown" or "anti-Brown," and if a majority were in favor of Brown, the representatives were to vote for me; if a majority were opposed, they were to vote against me. What was the result? About 1,400 votes were indorsed, and of this number Brown got over 1,200, or more than six to one. I could mention other instances, but let these suffice. Doubtless there are portions of the State where Governor Colquitt was stronger than I was. But I do not think, in view of all these facts, that anyone will say that I was indorsed by a majority of less than fifty thousand in the State.

"Defining sentiment to mean opinion, and it seems to me that the opinion of the people of Georgia has been emphatically expressed in my favor and against my opponent, and if the representatives of the people here carry out the will of the people, I shall certainly be returned to the Senate.

"I accept the issue, then, that you elect a senator who is in accord with the sentiment of the great mass of the people of Georgia, not in accord with the sentiment of that small class who feel that they have a divine right to rule and who never expect to accept in good faith the reconstruction measures. The people of Georgia realize the fact that the world moves; that we have gone through a great revolution; that there has been a great change; and they have moved and intend to move with it; and we shall have to move along and leave that small class of excellent people who have such tender sensibilities to their misfortunes. We do this with regret, but we have to bury the dead issues and to go forward with the living future.

"If I shall be elected to the Senate, I shall go there to represent no sickly sentimentality, I shall go there to represent the interests, the prosperity and the honor of Georgia. I shall go there to do all in my power to bury dead issues, and it will not be my purpose to stand there as a fossil of the past ages, bemoaning our losses and making no effort to retrieve our fortunes. But I shall try to stand there as a living man of the present, taking advantage of whatever opportunities may offer, to build up the waste places and restore prosperity and happiness to our people.

"If you honor me with a seat in the Senate, I shall do all I can to advance the great agricultural interests of this State and of the whole country. Congress owes it to that class upon whom rests the responsibility of producing all that makes us a great people and upon which every other profession depends, to lend them every aid in its power. And I should not hesitate to vote for any appropriations that might be necessary to advance the improvement of agriculture, and to develop the agricultural resources of the country. I

should also feel it my duty to do anything in my power to encourage the development of the great mineral wealth of this State and of the country. You have, imbedded in your valleys, hills and mountains, inexhaustible supplies of iron and coal and other minerals, that in future will make Georgia one of the greatest States in the Union. Instead of lying still and doing nothing, I shall be ready to aid in any way I can in putting measures on foot for the development of these great interests. It is also our duty to do everything we can, consistently with the rights of the people, to build up the manufacturing interest of the country. We have in the South the great staple upon which the exchanges of the country are conducted, and that moves the wheels of commerce. It has been found that the price of the cotton crop can be doubled and trebled here by manufacturing. We have in future no negroes to buy; we are making money; we shall want investments. Let us do all we can, then, to build up the manufacturing interests in Georgia, and thus greatly augment her wealth by giving employment to her citizens and furnishing markets for their productions, and sending off those productions in a shape to be worth several times the amount that they are in the raw state when first produced.

"I met, while in Washington, a number of very intelligent persons who made anxious inquiries in reference to our manufacturing interests here, and as to the profits made on investments. I told them we had advantages which they did not possess North. They asked in what they consisted. I said your streams are frozen up in New England part of every winter so as to be a serious obstruction to the business of manufacturing. In the South, there is never a day in the year that the wheels of every factory cannot run. There are no obstructions by ice. [Applause.]

"Another point I made was that on account of the very cold weather during the northern winters, the cotton did not spin as well as it did in our climate. They said: 'Why, how do you know?' I replied that when I was a boy, when there were wet days, and I could not work out of doors on the farm, my mother taught me to spin; and probably no girl in the country could then beat me spinning; [Great laughter and applause.] and I always found the threads did not draw as well of a cold, bleak day, as they did in mild weather. [Renewed laughter and applause.] They admitted that they had to keep the rooms at a temperature in winter that sometimes impaired the health of their operatives.

"Again, I stated that we had the advantage in cheap labor, and that the raw material is produced in the South in the fields around the factories themselves. They have to pay freight on their cotton from the South to New England, and then spin it and send it back to us and other markets. All this we save. [Applause.] We have comparatively no freight to pay; but send off the productions of our looms many times as valuable as the raw material at a great deal less cost. [Applause.] When I told them of the profits made by our Augusta mills, and the high price that the stock bore, some

gentlemen of capital said they desired to look further into the matter, as they thought of investing in that line, and that they would look through Georgia before they made an investment. [Applause.]

"They inquired whether capital invested here would be protected. I told them that a citizen from any part of the Union could bring his money here and invest with perfect impunity, if they would act the part of peaceable, law-abiding men and not try to stir up strife between the races. [Renewed applause.] I think there is good reason for the belief that within a few years a great deal of northern capital will be brought South to be invested in manufacturing. [Applause.]

"As an aid in the development of these great interests, I shall do all I can to secure our part of the appropriation for the improvement of our harbors and the cleaning out of our rivers so as to make them navigable; and to make those that cannot be navigated with large boats fit for rafting purposes. You have in the lower half of the State a timber interest that is worth many millions of dollars. Small appropriations judiciously expended would clean out the rivers of that section and put them in condition that you can raft down them all the year. Then by running railways and tramways out into the timber lands these millions of wealth can be sent to the markets of the world and the gold brought back in return. I shall do all I can to aid in that. I know some are opposed to all internal improvements by the general government, but it is an unquestionable fact that there will be from seven to ten millions of dollars a year expended for this purpose. And as we pay into the treasury our part of the money necessary to the burdens of government, I shall feel it my duty to do all I can in the distribution to get our share of it in return. I think justice and wise statesmanship require this. Not only so, but I shall do everything possible to aid in the development of our harbors all along the coast, taking first the harbor of our beautiful city of Savannah. I pointed out in a speech delivered in the Senate the advantages of that harbor and shall never relax my efforts for its improvement for I think great interests depend upon it. The other harbors around our coast and the inland channels should have the earnest attention of the representatives from Georgia in both Houses of Congress. I think I can do more good by seeking to develop these great interests while I remain in the Senate, if I am senator, than I would by sitting there and preparing an eloquent speech, with rounded periods, and delivering it once in six months, upon the sentimentality of the South and the Bourbonism of the past.

"There is another great question that the statesman of the South has no right to disregard. I refer to the great question of popular education. Disguise it as you may, the New England States, by their broad and liberal educational system, the splendid endowments they have given to their universities, and their admirable common school system, have educated their people up to a point which has given them great advantage in the contest for power and place in this government. Travel, if you please, over the

broad plains of the mighty West and you will find in most instances that the lawyer, the physician, the doctor of divinity, the member of Congress, the schoolmaster, the literary man, the newspaper man, and the most prominent citizens in their cities were educated in New England. They have imbibed New England ideas and through their influence New England has dictated laws to the continent. If we would elevate the people of the South to the true position of power and influence to which they are entitled, we must educate the masses of our people and develop the bright intellect in the humbler circles of life that is now left uncultivated. There is in many a cabin in the mountains or in the wire-grass of Georgia, a bright-eyed, brilliant little boy who has a diamond concealed in his breast, and neither he nor his parents know it. Send him to school long enough to rub the rough from the diamond and it will begin to sparkle. Afford him advantages to go a little further and it will be seen to be still more brilliant, and he will soon reach the point where you can neither keep him down nor limit his thirst for more knowledge.

"Under the Prussian system the talent of the masses is carefully watched; and in whatever department the natural bent seems to run the brilliant intellect is cultivated until its training has passed the stages of the common schools and the universities; and the man of grand intellect whose natural disposition runs in any particular line or art is made a master of that art. Thus the State gets the benefit of all the great intellect of the country developed by proper training. Let us imitate the example of New England and Prussia and our people will soon reach a point where it will be impossible to keep them in the background. They will move forward to the front, and we shall develop the great resources of the South by native intellect, aided by culture and science.

"But our condition is peculiar. During the period of slavery reasons of policy forbid the education of the colored race. They are now not only set free, but they are made citizens with all the legal rights of citizens; and being citizens it is our duty to make of them the best citizens in our power. Much to their credit be it said, they have shown a laudable ambition for the education of their children. We were a rich people when we went into the war, but we had to maintain our own armies for four years out of our own substance, for which we cannot now show a dollar. True, we got the bonds of the States and of the Confederacy during the time for our property. But they were repudiated at the end of the war and are now nullities. We not only had to submit to this great drain upon our resources, but we lost billions of dollars of gold that we had invested in slaves. And then at the end of the war we had to return to our place in the Union and resume our proportion of the burdens of government, and we have to pay our proportion of the war tax of the government. The slaves were set free by the Union as a matter of necessity. They are now cast upon us as free men, a large mass of ignorance. Is it just or generous for the Union to expect us in this impover-

ished condition to take upon ourselves the entire burden of their education? I think no just man, North or South, who has thoroughly investigated this question can so contend. What then shall be done in this state of things? My opinion is that the Government of the Union should assume the burden of aiding in the education of the people. And I think the most permanent fund and the best fund that could be appropriated to that purpose would be the incomes from the sales of the public lands. Let them be kept separate in the treasury as an educational fund and let them be annually distributed among all the states in the Union in proportion to the illiteracy that exists in each. I would not confine the money to the education of the colored race, but apply it alike to the education of white and colored. As we have the four millions of colored people among us, we of course have a great deal more illiteracy than there is in New England and we would get more of the money. But I believe the enlightened people of New England, seeing the condition in which we are placed by the abolition of slavery and the results of the war, would generally acquiesce in a measure giving us this advantage until we have reached a period when the intelligence of the different sections is placed nearer upon an equal basis. I cannot speak authoritatively upon this question. I do not know what view Congress may take of it; but I do not hesitate to say, if I should have the honor of sitting there, that it will afford me great pleasure to support a measure looking to this great result.

"I know this, however, does not comport with the old idea of the old regime of the South. The slavery system, while in existence, was incompatible with this view. But we must remember that we are not now living under that system. As already stated, we live in a new era, and the new South must adopt new ideas, must wake up to new energy, and must stand upon the broad platform of equal rights and equal justice to all. We must conform to the constitution and laws as they now exist; and we must see that every citizen, whatever may be his race, color, or previous condition, has every legal right to which he is entitled. Legal equality must be strictly and impartially enforced; social equality must be left to take care of itself in the South as it is left in every other land. I am for a free ballot and a fair count, and for the execution of the 13th, 14th, and 15th amendments in honest good faith. It has been charged that I have probably promised some colored men, in case of Garfield's election, to try to secure positions for them. I do not know what influence I may have with the new administration. It would be my purpose to deal justly and liberally with it. While I sacrifice no principle of democracy I shall make no unnecessary assault upon the administration. I prefer, as far as principle will admit, to act in harmony with it; and if I find Democrats cannot get the patronage in our State, as the colored race constitutes a large majority of the Republican party of the State, I believe they would be entitled to be represented in the distribution of the offices. Some of them are now qualified to fill certain positions, and if the party with which they act is in power, they would seem to be entitled to

something. Senator Hill, in 1870, said that he would prefer an honest negro to a dishonest white man. Doubtless there are some white men in Georgia no more qualified for position and no more honest than some of the better class of the colored race. We had just as well make up our minds to meet the issue fairly. The reconstruction measure must be executed in good faith, and the legal rights of every citizen must be respected and protected without regard to race, color, or previous condition of servitude. I do not wish, while I am a candidate, to mislead the representatives of the people, and I therefore state my position on this question distinctly and frankly in advance of the election which is to take place to-morrow. I understand this to be exactly the doctrine contained in the Democratic platform and in the letter of acceptance of General Hancock. We have made these pledges to the country and should carry them out in strict good faith.

"But I must notice the sectional argument made by my opponent. He takes the position, as I understand it, that I should not be elected to the Senate because I live in Atlanta, and that he, or some one else should be elected from his section, because he lives in Savannah. I confess I do not see what the particular place of a man's residence has to do with his capacity to serve his constituents or the constituency of his State in the Senate. When I took my seat in the Senate I did not feel that I was there as the representative of Atlanta, or any other locality in Georgia, but as the representative of the whole State. The first act I did there was to move to restore the ten thousand dollars which the House of Representatives had incorporated in the Harbor and River Bill for the harbor of Brunswick, which had been stricken out by the committee on commerce in the Senate. After a considerable contest, in which my colleague also aided, the ten thousand dollars was restored to the Bill and Brunswick gets the money. In other words, I had been there but a short time, in the language of General Toombs, my distinguished opponent, before I scented the treasury; and I ran my hand in up to the elbow and pulled out ten thousand dollars and gave it to the Brunswick harbor. I accept the taunt and do not complain of the position in which it places me. True to the same instinct, I next moved to amend the River and Harbor Bill by increasing the appropriation for the Harbor of Savannah from \$65,000 to \$100,000. I wanted to put my arm in there and pull out \$35,000 for Savannah. But the committee said they could not permit their report to be overruled in so many particulars, and they seemed to feel that it was especially necessary, as the session was drawing to a close, that the bill should pass as nearly as possible like it came from the committee. Many of you have seen what I said and did there on that occasion. I did all in my power to serve Savannah; and I think I have sowed the seeds which will yet produce the harvest for her.

"The next act I did was to introduce a bill in behalf of a railroad that is building from Waycross through to Jacksonville, Florida, which crosses the St. Mary's river below Traver's Mill. That river being a navigable stream,

though only a hundred feet wide, it was necessary to get the consent of Congress before a permanent bridge could be put across it, unless it be a draw-bridge for boats to go through. And as the real head of navigation is below the point and the boats do not come there, and the river is used only for rafting purposes, to put a pier in the middle of it so as to put in a draw-bridge, as would have been required of the railroad company, would have obstructed it so that the timber could not have been rafted down it. My bill was to authorize the company to build a permanent bridge there without the draw, and without the obstruction in the way of the timber interest. And I got it passed through the Senate. And the honorable representative from the first will no doubt get it passed through the House when he goes back there in December. I was not very sectional, therefore, in the start I made in the Senate. My first act was in favor of Brunswick, my second in favor of Savannah, and my third in favor of Charlton county, in the extreme southeastern corner of the State. I did more for lower Georgia than I did for upper Georgia while I was there. Whether General Lawton would have done more for that section had he been there, I must leave for you to judge.

"But I must contend, if you will permit me to treat this subject with a little levity, that General Lawton has, it seems to me, recognized the propriety of the senators coming from the same locality. My friend Hill never could get into Congress until he moved into the ninth district, the upper portion of the State. He was then elected representative and from that to the Senate. And it may yet be questionable whether his residence is in Athens or Atlanta. I sprang from the ninth district. In other words I am from Gaddistown, in Union county, where they said I plowed the bull. [Tumultuous laughter and applause.] The county represented here by my friend Sena or Curtis, near the line of the district represented by my old friend Senator Duggar. And I am not ashamed of the place whence I sprang. My young friend Speer was never so distinguished till he went to the ninth district. It is a good place to look for congressmen in. There they soon elected him to Congress and have lately returned him by over 4,000 majority. [Great applause.] Finding therefore that I sprang from the ninth district, and that Mr. Hill went into the ninth district and got into the Senate, when senatorial aspirations seized my friend, General Lawton, he at once established a summer residence at Mount Airy, up in the ninth district. [Prolonged laughter and applause.] He must not complain, therefore, that two of us already in position come from the ninth district, when he, too, goes there as soon as he determines to seek position. [Laughter.] I do not think the geographical objection is well taken. If I should be elected, gentlemen, I shall guard with equal care and vigilance the interests of every county and every section of Georgia.

"In defending myself against the assaults made by my opponent, I have not arraigned him. I think we have too much personal bitterness in our

campaigns. It seems to me the people are determined to put a quietus upon it. Probably there was never a campaign in Georgia where there was so much vituperation and abuse, as there was against Governor Colquitt in the late campaign, and the people rose up and said 'stop it.' And they spoke in thunder tones rounded off by a majority of fifty-five thousand when they again said, 'It shall stop!' I do not believe, gentlemen, that you approve of the mode adopted by my opponent to seek his advancement by assailing my political record, in a matter of twelve years ago in the dead past, where it turns out that the mountain indeed did not go to him, but he had to go to the mountain. I might go back and examine the official record of General Lawton in the most responsible place he ever held. He made a gallant soldier during the earlier periods of the war. He was then made quartermaster-general of the Confederate States. He represented very well the sentiment of the ruling class to which I have referred. No doubt he acted honestly and uprightly. But I think I have seldom heard as much complaint of the management of any department as I heard during that period of the management of the quartermaster department. If my friend was not at fault he seems to have been singularly unfortunate in the selection of his agents. But I do not propose to make an assault there. I simply say that any administration of mine will compare favorably with his administration of the quartermaster's department of the Confederate States of America.

"He has arraigned me for accepting a fee to prosecute the Columbus prisoners. I have not time nor have you patience to go over the discussion on that question. It has been of late so fully discussed, and my motives have been so fully defined before the country and sustained by such unquestionable evidence, that I do deem it necessary to recur further to it. I was the best friend of the unfortunate defendants in that unfortunate struggle. I might in reply inquire where my opponent has stood in contests of this character where popular rights were at stake. As has been shown within the last two or three days by a writer in *The Constitution*—and it was not at my suggestion—the very idea of taxing the railroads of Georgia originated with me while I was in the executive office. It is only my idea put into effect. I vetoed charters on all occasions when there was any attempt to limit the taxing power and guarded it carefully, and called attention to the fact that it would become necessary to exercise it. When the time did come to carry out my policy there, and legislation was had on the subject, General Lawton accepted a fee and appeared as the champion of the largest corporation in Georgia in resisting the law to tax that grand corporation. At a later period the Legislature thought it necessary to appoint a railroad commission to intervene between the people and the railroads in regulating freight and transportation. The contest arose between the people of southwest Georgia and the great corporation of the State in reference to that question. And General Lawton accepted a fee and appeared

in behalf of the corporation against what the people believed to be their rights. On all these great popular questions, therefore, he has thrown himself in the breach as the champion of corporations against what is claimed to be the rights of the people. When he arraigns me for accepting a fee in a case that I would have had a right to appear in, if it had even been with the view as counsel to conduct the case to conviction if guilt was established, he should remember where he has appeared against the popular current, and what was regarded as the popular interest, and as representing monopoly against popular rights. In other words, those who live in glass houses ought not to throw stones.

"It is charged by my opponent, that in a speech delivered at the city hall in Atlanta in 1868, I threatened my own race with the torch, and attempted to incite the negroes to acts of bloodshed and devastation. This charge does me great injustice. And just here it is proper that I should state the surroundings under which the speech was delivered. Public notice was given that I should address the people on that occasion. On the morning before the meeting I was warned at different times and by different friends not to go upon the grounds, as it was said there was a band leagued together for my assassination if I attempted to speak to the crowd on that day. I replied that I had promised to speak, and it was so advertised, and I should be there; that I should do all I could to avoid a collision, but if it must come I should take the consequences. An intimate friend and relative of mine received a like warning, and was urged not to permit me to go there. He replied that he knew I would go. Hearing of the threats, a few friends of mine accompanied me to the stand and remained there, armed for an emergency, while I delivered the speech. The friend who received that warning, and who sat with his hand upon his pistol while I delivered the speech, is in this audience to-night. Others who were present in like capacity are still in life. It is well known that at that time there were occasional assassinations growing out of the bitterness engendered by political divisions. Speaking under the warning that my life was in danger every moment, and knowing that the effect of an attack would be a general outbreak, I warned both races against intolerance or an attempt to interfere with the relative rights of each other. I warned the white race that they could not get rid of negro suffrage by an appeal to violence; that four millions of people enfranchised by revolution could not be disfranchised without bloodshed. I warned them as friends to be cautious on both sides and not to put their lives in jeopardy and their homes and families in peril. And I especially warned my own race of the extreme danger to them, in case of a collision, and referred to the fact that the colored people had but little except their lives to hazard, but that the white people had their lives and their property, and their houses. And I cautioned them to be careful how they excited discord and bloodshed. The warning was given alike to both races under circumstances of extreme peril. The advice was good

that both sides keep the peace. Each felt that life was in danger if a blow was stricken. And as the threat of assassination came from my race, and they had most to lose by striking it, the caution probably had its influence in preventing bloodshed, which, if begun, might have ended in fearful destruction of life and property.

"These are the circumstances under which the speech was made and the substantial facts. I am not responsible for the newspaper reports at the time any more than my opponent was responsible for the recent inaccurate reports of his speeches made by the papers who favored his election; and he has disclaimed the correctness of the reports made by papers friendly to him. You have the substantial facts, however, before you. I feel that the warning was timely; that the circumstances required it, and that good results followed it; and I am not afraid of an adverse verdict of an enlightened public when the facts are known.

"What interest had I in inciting insurrection and bloodshed and the application of the torch to houses and other property? Had I not as much at stake as almost any other citizen in Atlanta? If the blow had been stricken probably my life would have been taken and my property first destroyed. You will all give me credit for intelligence enough to understand this; and I am quite sure you will not doubt that under the circumstances my earnest desire was so to shape my course and my advice to both races as to secure peace and harmony and not to incite bloodshed and the use of the torch. My enemies, a little hard run in their search for something in the past out of which to make capital, have brought this matter to the attention of the public. I meet it with a fair, honest statement of facts, and am ready to abide the verdict of an enlightened public. Would any of you under similar trying circumstances have done less than caution both races to keep the peace, under the fear of penalties to each resulting from an outbreak? I am satisfied you would not, and I here dismiss this charge.

"General Toombs, in his speech, is reported to have said that the Seymour platform declared the reconstruction acts to be unconstitutional, null and void, and that this is true yet; and that he does not believe five hundred honest men voted for them. Over thirty thousand white men in Georgia voted to accept them, whose honesty of purpose would not suffer in comparison with that of General Toombs. Note the remark: he declares that it is true yet that the reconstruction acts are unconstitutional, null and void. Every one of you has sworn to support them. Did you understand you were swearing to support a nullity, an unconstitutional or void act? The trouble with the general is that he fails to learn wisdom by experience. He has always had a turn for pulling down, and was never successful in building up anything. He is a good phrase-maker; and he has much to say about the protection of the public treasury. He has managed to get into a number of lawsuits as counsel for the State in railroad and other cases, where he scent the treasury, and ran his arm deep into it and drew out large

amounts, or rather he retained large amounts collected as fees, which he did not pay into the treasury. Under the high sounding phrase of 'serving the Commonwealth,' his 'old mother,' [Laughter] he has lined his pockets with lucrative fees. I believe we have never learned how much he has retained as fees from the amounts collected, and how much he has drawn directly from the treasury. It is said the amount of his fees and commissions ranges somewhere between twenty-five and fifty thousand dollars. If I am misinformed he can easily correct it, by giving the public a full statement of all the fees, commissions or money, which he has received or retained on account of services rendered in cases where he professes he represented the State. I make no charge against General Toombs [Laughter and applause], but he has so much to say about the dishonesty of better people, that the citizens of Georgia would no doubt be glad to have a statement of the amount he has retained in these cases.

"But I would ask, which do you prefer? I put my hand into the treasury and draw out ten thousand dollars for Brunswick, for our own people, while General Toombs, the volunteer for the Commonwealth in civil cases, is said to have put his hand into the treasury of our people and drawn out much more than that amount for his own pocket.

"He turns a few paragraphs upon the Bullock administration. Governor Bullock was brought back to the State, after he had taken up his residence in New York; and he was placed upon trial before the court, and he was acquitted by a jury of his country on every charge they brought against him in court. Why did not this faithful guardian of the rights of the people appear and make good his charges that Bullock had stolen money from the State? Why did he not prosecute to conviction Foster Blodgett and those that he terms thieves under his administration? Several of them were put upon trial but we hear little of the verdicts of conviction. Was it because there were no large per cents. to be retained as fees, as in the case of collections in railroad cases, that the eloquence of the great volunteer for the Commonwealth was not heard in the prosecution? Why did he permit these criminals to go unwhipped of justice in the courts, if they were as guilty as he says they were?

"The course taken by General Toombs since the war is very well illustrated by the story of the old gentleman in one of the counties between here and the Savannah river. He and his old lady started in the buggy to visit some friends and on the way had to cross the river. In going down into the flat one of the straps broke and the buggy ran upon the heels of the horse, and he kicked himself loose and ran back home. The good old lady, who believed in the policy of reconstructing, gathered up the fragments of the harness and started for home. The old man refused to go, but sat down on the river bank and commenced cursing. The old lady, however, carried the pieces home, got an awl and an 'end' as they call it, and began repairing the harness. And finding the horse at home she told the servant to

take him and go down to the river and meet the old man and bring him home. After an absence of an hour or so the servant returned, and she asked, 'Where is the old man?' And he said, 'He wouldn't come.' Then she said, 'What is he doing?' The servant said, 'He is still sittin' down on the river bank, cussin'.' [Tumultuous laughter and applause.]

"So in this case we have had a war brought on more by the agency of General Toombs than of any other man in the South. It turned out differently from what he and others of us expected. We have been unfortunate. We have broken the harness, the horse has kicked out, and the question has arisen what is to be done? The mass of our people have concluded it was better to gather up the fragments, reconstruct the harness and the vehicle, and prepare to move forward again, and do all we can to restore our lost prosperity. We have appealed to General Toombs, who led us into the destruction, to aid us in the reconstruction, but the old man refused to do anything to aid in restoring prosperity, and sat down on the river bank and commenced cursing.

"We were obliged to move forward, but, like the good old lady, we sent the horse back for him, and he still refuses to come; and the report is that he is still sitting on the river bank a cus-in'. And as the country must move forward, we are obliged to leave him there and let him cuss. [Prolonged laughter and applause.]

"I beg your pardon, ladies and gentlemen, for having detained you so long. I could scarcely have done justice to the subject and to my defence and said less. I feel that I have been true to you, true to my State, true to the whole country. I told you the truth when it was exceedingly unpalatable. I did not shrink from the responsibility, and I have passed through a hard ordeal. I knew my vindication was only a question of time, and I have never doubted that truth would prevail. And I thank God that

'Truth crushed to earth shall rise again,
The eternal years of God are hers;
But error, wounded, writhes in pain,
And dies among his worshippers!'"

During the delivery of the speech Governor Brown was frequently and enthusiastically applauded. At the conclusion, as he was about to take his seat a telegram was handed him, when he resumed as follows:—

"I ask the indulgence of the audience for one moment, while I read a telegram. It is from a gentleman to whom I had communicated my intended course and my motive when I first took position for the acceptance of the reconstruction measures. He is a bosom friend, a man of the highest character; he was an ornament to the judiciary of Georgia, while upon the

bench; he ably represented our country at a foreign court, and on the plains of Mexico, and on the ensanguined fields of the South he led his troops with the gallantry and courage of a Marshal Ney; he is one of the purest and noblest men of Georgia, the Hon. Henry R. Jackson, of Savannah." [Applause.]

The speaker then handed the telegram to a friend, who read as follows:—

SAVANNAH, GA., }
Nov. 15, 1880, 9:40 P. M. }

"Returning home, have just opened your letter too late to reply by mail. In the conversation referred to, you used arguments afterwards addressed to the public. In addition, you said that unless some one should pursue the course you contemplated, you thought great evil would result to our people. You felt it your duty to pursue that course, but believed you would probably be sacrificed; that you were prepared to make the sacrifice, looking alone to the protection of your race against the peculiar dangers before it. This briefly is my recollection of the conversation. You can publish if you desire.

"HENRY R. JACKSON."

The telegram was greeted with renewed applause, when loud calls were made for the Hon. Emory Speer, who spoke as follows:—

"*Ladies and Gentlemen* :—I cannot do myself the injustice to fail to thank you for the compliment, the very gratifying compliment, which you pay me this evening by this invitation to speak to you. It would ill become me, however, to attempt to supplement the logic, the force and the natural eloquence of that magnificent vindication which has just fallen from the lips of this distinguished Georgian. [Applause.] It was not spread-eagle oratory; it was not that power above power, of heavenly eloquence, that with the strong rein of commanding words doth master sway and move the eminence of men's affections; but a simple narrative, it was, my fellow-citizens, the eloquence of truth. [Applause.] The vindication is absolute; it is complete. Were I a member of the General Assembly of Georgia I would vote for that man for senator who, when a poor boy, drove a pair of young steers of his own raising [Cheers and applause] from Gaddistown in the ninth district, to South Carolina, and there sold them for the money that paid for the board and schooling of the first year of his free life. [Renewed applause.] I would vote for the man who has successively become, by his unaided exertions, senator in the General Assembly of Georgia, judge of the superior court, governor of this grand old Commonwealth, chief justice of the supreme court of his State, president of the most powerful rail-

road corporation South, and senator from Georgia. [Applause.] I do not believe in that school of politics which teaches the doctrine of unpardonable sin. For my part I am proud of this great Georgian. [Applause.] I have witnessed his efforts in the senate chamber of the United States. I heard there the first utterances that fell from his lips. And I saw that such men as Blaine and Conkling regarded him at once as a foeman worthy of their steel. [Applause.] Let us not live in the past. Let us not, like political ghouls, drag from their graves the dead issues of the past and make them like ghosts that will not down, but terrify and mislead; let us, my fellow-citizens, live in the living present, and in the hopeful future. And let us, oblivious of the past except to remember its lessons of heroism and to avoid its mistakes, labor to develop that magnificent heritage with which a divine providence has blessed the American people. [Renewed applause.] So living and so acting upon the plane of a common humanity, a common brotherhood, a common destiny and a common country, our institutions will prosper, our government will flourish, and soon the day will hasten on

‘ When freedom’s flag, here first unfurled,
Shall wave above earth’s prostrate thrones,
And its bright stars shall light the world.’ ”

[Great and continued applause.]

The vote of the Legislature for United States senator stood 146 for Governor Brown and 64 for General Lawton, being a majority of 82, or 12 over a two-thirds majority in an aggregate of 210 votes. It was a fairly won victory of the most decisive character. It was so complete a triumph as to destroy the possibility of depreciation. The result could not be construed as the test of the strength of General Lawton with the people, for under other circumstances he would have received a larger vote. But the result was the measure of Governor Brown’s renewed hold upon his people, and no man could have made a better showing against him than the distinguished citizen and soldier whom he so decisively defeated.

Senator Brown’s career in the Senate has been a surprise and marvel of industry and intellectual activity. There is nothing in the history of legislation to compare

with it. Let us look briefly at the topics upon which he has made elaborate and thoughtful speeches, full of information and statesmanship, exhibiting profound knowledge and broad reflection, and involving the most difficult subjects of national and international legislation. Among these were speeches as follows:—1. December 15, 1880, On the Educational Fund, covering 13 closely printed nonpareil pages; 2. January 24, 1881, Land in Severalty to Indians, and is he a Citizen under the 14th Amendment? 13 pages; 3. February 17, 1881, The Bill to refund the National Debt, 8 pages; 4. March 28, 1881, That Peculiar Coincidence of Senator Mahone, 15 pages; 5. April 14, 1881, A Free Ballot and a Fair Count, 20 pages; 6. January 18, 1882, On the Silver Question, 20 pages; 7. February 16, 1882, The Mormon Question, 15 pages; 8. March 6, 1882, The Chinese Bill, 16 pages; 9. March 27, 1882, A Tariff for Revenue with Incidental Protection, 16 pages; 10. December 14, 1882, Civil Service Reform, 15 pages; 11. January 8, 1883, The Right of the Confederates to the Proceeds of the Sale of Cotton in the Treasury, 24 pages; 12. January 23, 1883, The Tariff and the Internal Revenue System, 15 pages; 13. February 20, 1883, The Proper Rule for Raising Revenue, 16 pages.

These speeches are printed in the Appendix to this volume, and illustrate the versatile, the practical, the prodigious capacity of Senator Brown, and they constitute a series of intellectual demonstrations unparalleled in the annals of Congress. A senator who in one term of six years accomplishes two leading speeches upon large themes of national interest comes up to the full measure of a reasonable public expectation. The preparation for such an attempt involves heavy labor and extensive re-

search, the examination of authorities, and the study of statistics. The serious part of the speech is, then, the adjustment of the line of thought, the construction of the groundwork with suitable material, and the erection of a symmetrical superstructure of deduction that will pass the unsparing criticism of the highest representative statesmanship of fifty millions of intelligent people, imbued with the spirit of free institutions.

In a little over two years this strong-brained and marvellously equipped senator from Georgia prepared and delivered a dozen leading speeches upon the largest topics of national statesmanship, all admitted by his critical colleagues in the august body to be masterly expositions, attracting general attention by their original treatment, marked by breadth of conception, builded with consummate logic, and looking to a sagacious practicality of result. The high estimate put upon his powers by the members of the Senate was variously expressed. Men of all parties united in strong encomium upon his abilities. Senator McDonald of Indiana used these words about him :—

“He is one of the most valuable additions made to the Democratic force in the Senate for years. More than that, he is a senator whose influence will be felt all over the country. He seemed to recognize instantly upon coming into the Senate that it was not a debating society, but strictly a practical business body. He therefore became at once a sensible, straightforward, sagacious worker, and won the confidence and esteem of both sides of the chamber. He can be a power for good in the practical questions that must be settled now that sentimental issues have died out.”

Mr. Hill, his colleague, valued his powers highly. Their

political careers had been curiously blended. In his first race for governor, Senator Brown had defeated Mr. Hill after a heated canvass and discussion. Mr. Hill was a warm supporter of conscription and other matters of policy by the Davis administration, when Governor Brown opposed such policy. In the reconstruction days they stood against each other in their famous controversy on the "Notes on the Situation," though Mr. Hill subsequently came to Governor Brown's views. They were now colleagues, and Senator Hill, in his admiration for his old antagonist whom he had learned to know, declared him possessed of "discretion, sagacity, and inflexible patriotic sentiments." Senator Conkling, himself a man of large mental stature, affirmed the opinion that he "looked to see Senator Brown one of the most notable men in the country." Perhaps the most felicitous piece of praise of the new Georgia senator was by Senator Lamar of Mississippi, who said, "The ease, dignity, and power with which he established himself as one of the leaders of the Senate was simply marvellous."

His speech on the "Peculiar Coincidence" of Senator Mahone, a Democrat, supporting a Republican organization of the Senate and the nomination of his friends, Gorham and Riddleberger by the Republican caucus, for secretary and sergeant at arms, was effectively made. The Democrats would not go into an election, and the Republicans held back from executive session. Senator Brown exposed the significance of Senator Mahone's un-Democratic conduct, and was the instrument of holding the Democrats in determined opposition to the filibustering tactics of the Republicans. His policy was followed and resulted in a Democratic triumph, the first in a long period, and which counteracted the demoralization that had

been gradually seizing the Democracy. This speech and the line of policy connected with it, illustrate the bold, astute, self-reliant quality of leadership that has given Governor Brown such success in political management.

One striking peculiarity of Senator Brown is the fullness with which he works, giving an exhaustive treatment to whatever he handles. This is especially true of these senatorial speeches. With a remarkable perception of fundamental principle, with great faculty of generalization accompanied by absolute grasp of detail, his expositions of the subjects were thorough and searching, going to their very vitals.

His speech on education covered the subject entirely. Always an advocate of the most liberal educational facilities, standing, as the young governor of thirty-seven years of age, far ahead of the times, his early convictions had ripened with years, and he presented an unanswerable line of thought impregably fortified with historic illustration. Upon the colossal theme of national finances he made two strong and able expositions, one on refunding the national debt, and the other against the policy of contracting the currency by the withdrawal of the silver certificates from circulation, and urging that the proper circulating medium of this country was gold and silver coin, based upon the proper ratio of equivalence between the two metals, and issues of paper predicated upon and convertible into coin on demand. These efforts were marked by breadth of view and that keen discernment of the practical needs of the country that distinguish this senator upon all public questions. In this financial connection he made an elaborate and conclusive argument on the rights of the citizens of the late Confederate States to the ten millions of dollars in the United States treasury, the proceeds of the sale

of their cotton seized by the agents of the government, discussing the effect of the President's pardon on their rights.

On the mighty and perplexing subject of the tariff, that kaleidoscopic puzzle of the politicians, he was the author of three original deliverances, in which, with characteristic boldness, he formulated the doctrine upon which the Democratic party must stand in its conflicts, a position combining with singular felicity the requirements of principle with the demands of progress. This happy enunciation was "a tariff for revenue with incidental protection," and was ably argued. In the second of these tariff speeches, he discussed in his trenchant and unmincing method the wrongs of the internal revenue system, with its arbitrary espionage and oppressions. The third of these tariff speeches presented forcibly the proper rule for raising revenue to support the government, taxing luxuries higher and necessities lower.

A subject of great magnitude and importance and involving constitutional questions of delicacy was that of citizenship, and upon this he made a series of speeches, handling it in its various aspects with consummate mastery and profound insight into the principles involved. One speech was addressed to the citizenship of the Indians in connection with their right to severalty in lands. The second was upon the proper way of dealing with the Mormons, whose religious system presents the anomalous moral conundrum of our civilization. The third was consideration of that vexatious inundation of Chinese labor, that was pouring in upon the Pacific coast; and whose alleged evils were complicated with international treaties affecting both commerce and missionary operations. The fourth, and a powerful presentation of view upon the

overmastering negro question, was his extraordinary speech upon a free ballot and a fair count, in which he daringly asserted and proved that the colored citizens of the South have greater freedom of ballot than a large class of white citizens in New England, and that the Republican party had done justice neither to them nor the white Republicans of the South.

Another engrossing theme upon which Senator Brown made one of his sensible and comprehensive speeches, that seized the public thought and impressed the country with his strong individuality, was civil service reform, upon which there was a vast amount of cant and sophistry in vogue. The measure before Congress, the pet of Mr. Pendleton, a Democratic aspirant for the presidency, and favored by the Republicans as a political weapon, was boldly declared by Senator Brown to be not demanded by public sentiment, and in its existing shape either a delusion or injustice to a majority of the people. And the operations of the measure since are verifying the correctness of his strictures, sagaciously uttered in anticipation.

These many speeches in so short a time, all able and exhaustive, all upon great topics of pressing interest, all covering every line of practical argument, directed both to the underlying principles and their resultant utility, afford striking examples of the wonderful mental fecundity and immense industry of the man. They established the high statesmanship of this senator, but they accomplished more, they placed Georgia among the foremost in the national councils for dignity and influence. Nor was his senatorial labor confined to his great speeches. In committee and in the departments he worked with energy and tact for the interest of his constituents and the ad-

vancement of his State, pressing individual claims with persistence and industry, and securing valuable appropriations for our harbors and rivers. His voluminous correspondence has been promptly answered. All matters consigned to his care for the State or individual citizens have been attended to with despatch and effectively.

It will be seen that in the exalted responsibilities of United States senator, Governor Brown, as in all other trusts, private and public, has not only sustained himself fully, but has been conspicuously prominent for his superiority, placing himself immediately in the front as a leader. In the very ripeness of his great faculties, with all the conservative wisdom that his Christian maturity and experienced statesmanship can give, Senator Brown stands to-day in the highest position of public usefulness and private distinction that he has ever occupied, and holds in his grasp the achievements of lofty service and honors for himself, his State, and his country.

Allusion has been made to his remarkable capacity for business which has enabled him to amass a large and growing fortune. But with the accumulation of wealth there has been an accompanying display of a generous and judicious private and public charity. His smaller givings have been innumerable. With a heart full of kindness and humility, he has ever been touched by suffering. His greater charities have been munificent and varied, and bearing a vast proportion to his means. The objects of his liberality are to be seen widely scattered. The Sixth Baptist church of Atlanta was the recipient of \$800 from him to aid in its construction. He donated \$500 to the Southern Baptist Convention. He gave another \$500 to assist in the purchase of an organ for the Second Baptist church of Atlanta ; he contributed \$1,000

to the Georgia Baptist Orphans' Home ; he subscribed \$1,000 to Mercer University ; he came forward with a timely gift of \$3,000 with which to repair and make additions to the Second Atlanta Baptist church ; he gave two donations of \$1,000 each to the Richmond college of Virginia ; he has furnished as high as \$800 in a single year to the payment of his pastor's salary ; he was a contributor to the erection of St. Luke's Episcopal church in Atlanta ; he presented \$2,100 for the erection of a parsonage for the Second Baptist church ; he has contributed liberally to the Christian church, the First Methodist church, the St. Phillips church, the Unitarian church, and to two or three colored churches in Atlanta. He has recently donated \$3,500 to the rebuilding of the Kimball house ; to the Southern Baptist Theological Seminary he gave the magnificent endowment of \$53,000.

His latest large gift was marked by peculiarly touching features, exemplifying his charitable spirit and noble encouragement of education, and tenderly illustrating the warm paternal instincts of his strong nature. The death of his cherished son, Charles McDonald Brown, in the very beginning of his bright and promising young manhood, from that fell disease, consumption, after an illness of two years, proved a deep blow to his heart and was the occasion of one of the most beneficent and useful benefactions of his public spirit. Desiring to perpetuate the memory of this sterling young man in an enduring form in connection with a high public purpose, he determined to give to the State University at Athens \$50,000 of the portion of his estate to which this son would have been entitled, to be used in the education of the poor young men of the State. The designs and details of this magnificent gift are fully set forth in the

following letter of the generous donor, and were suggested by Senator Brown's own hard experience when he was a poor youth struggling to educate himself, and were intended to provide a fund for just such cases as his own.

"ATHENS, GA., }
July 15, 1882. }

"To the Board of Trustees of the University of Georgia:

*"Gentlemen:—*I have had the honor to hold the position of trustee and member of your Board for over a quarter of a century. During all this time I have felt great interest in the success and prosperity of the university.

"It has long been my wish to do something which may afford substantial aid to it, and result in permanent future good to the people of this State who have so long sustained and honored me. I am now in better condition to carry out this cherished object than I have been at any time since my connection with the board.

"Nearly one year ago my son, Charles McDonald Brown, a noble Christian youth, of fine intellectual and business capacity, the soul of honor and integrity, who had been a student in the university, was taken from us by death. He was named for my true and cherished friend, the late Governor Charles J. McDonald.

"He was possessed of some estate, the bulk of which he left to me and his mother, giving small sums to each of his brothers and sisters in token of his love and affectionate regard for them. He had bright prospects, and if he had lived might reasonably have been expected at no distant day, at my death, to go into the possession of a considerable addition to his estate.

"Now, while it is my object to do something that will advance the interest of the university and aid to some useful extent in the education of worthy young men of the State who are not able to educate themselves; I desire at the same time to perpetuate the name of my said deceased son in connection with the university, and also that of my old friend, Governor McDonald, whose name he bore. As a means of doing this, I propose, with the consent of your honorable body, and upon the terms and conditions hereinafter mentioned, to make a donation to the University of fifty thousand dollars—money that might have been possessed by my son if he had lived—to be known, and in all appropriate publications made by the university, designated as 'The Charles McDonald Brown scholarship fund.'

"This donation to be made on condition that the State of Georgia will receive the said sum (which I will pay in cash into her treasury) to be used in payment of the public debt, or in such other manner as may be for the best interest of the State, and will issue her bond of bonds to the university, bearing seven per cent. interest, the interest to be paid semi-annually to the university, the bond or obligation to run for fifty years.

"At the last session, the General Assembly passed an act to make permanent the endowment of the university, which provides in substance that whenever the trustees of the University of Georgia shall, through their duly authorized agent or officer present at the State treasury for redemption any valid, matured bond of the State as the property of the university that the Governor shall issue to the trustees in lieu of said matured bond, an obligation in writing in the nature of a bond, in an amount equal to said matured bond, falling due fifty years after date of such issue, the same to bear interest at the rate of seven per cent. per annum, and not to be subject to be called in for redemption by the State before that time, not to be negotiable by the trustees but payable to them alone, to be issued under the great seal of the State, signed by the governor and countersigned by the secretary of state, etc.

"All I ask is that the State treat the amount which I propose to donate to the university, just as she would treat any other amount of money which may be the property of the university due at the maturity of any bond or bonds of the State belonging to the university.

"I have long thought it the duty of the State to endow the university liberally, and believe that wise statesmanship and sound policy dictated such a course. While the representatives of the people have not done what it seems to me would be wise, in this particular, they have shown a disposition to make permanent the endowment which the university possesses, and I think it would be only a reasonable extension of this law to make it apply to all funds that may be donated to the university, as well as to funds belonging to the university on maturing bonds. I cannot doubt that the Legislature will see the wisdom and propriety of doing this, and I therefore make the donation conditional upon the passage of an act to carry out this object in accordance with the rule above mentioned, at the next session of the General Assembly; and upon the further condition that the fund shall be used for the purposes, and in the manner hereinafter mentioned.

"There are hundreds, and I believe thousands of young men of good character in Georgia, who are intellectual and ambitious to become useful, who desire to obtain a liberal education; some with a view to the profession of law, others the practice of medicine, and some for the gospel ministry, some engineers, architects, chemists, teachers; professors in colleges and other useful and honorable pursuits, some of whom have at their command part of the means necessary to board and clothe them, while engaged in the pursuits of their studies in connection with the university. Other young men may be very bright and very worthy, who have none of the means necessary for board and clothing while engaged in their studies. I believe there are many young men of both classes mentioned, who would consider it their good fortune to be able to borrow at a reasonable rate of interest a sufficient amount to carry them through college, or to enable them to graduate in the particular profession or pursuit which they intend to follow, and who would be will-

ing, after they had obtained an education and prepared themselves for business, to refund the money as soon as they could make it after providing for their livelihood in an economical manner until they are able to pay it.

"Such a young man, who takes a proper view of the subject, would not desire to incur more indebtedness than necessity required. He would be willing for the sake of obtaining an education to wear plain clothing and be content with cheap board, if reasonably good and wholesome.

"I know from experience in early life the feelings of a youth desirous of educating himself without the means to do so; and the good fortune which a loan of money for support while engaged in study was considered as conferring upon the recipient. I recollect very well, too, that prudence dictated an economical course so as to incur no more indebtedness than was actually necessary. I preferred to live plainly and cheaply and study hard rather than be too much loaded with debt; but I considered myself very fortunate when I was able to borrow the amount actually necessary for the prosecution of my studies even to a limited extent. And I doubt not there are at this time large numbers of young men in similar situations who are prompted by the same feelings.

"The object of this donation is to establish a fund in the hands of the university the interest of which is to be loaned to young men of the character I mention.

"First: To aid in part, such young men as may have some means, but not sufficient to carry them through the course selected by them.

"Secondly: To aid others who have no means, but who are bright and worthy and ambitious to succeed. I desire that the university do this by loaning the interest which may accrue from the principal each year, to young men of the class above mentioned. No young man is to avail himself of the benefit of this fund until he is eighteen years of age; each to sign a pledge of honor when he enters the college and commences to receive the fund, that he will refund the amount he receives to the university as soon after he completes his course of study as he may be able to make it, living economically in the meantime; and as this obligation given during the minority of the student would not be legally binding, let him also pledge himself that when twenty-one years of age he will give to the university his obligation legally binding for the payment of said sum as aforesaid with four per cent. per annum interest upon the same.

"As each will incur indebtedness by borrowing the means necessary to educate himself, each will become more self-reliant, which will be better for him in the end, if he is manly and possesses talent, than if the amount had been given him.

"And as tuition is now free in the university, I direct that not more than two hundred dollars per annum shall be loaned to any student, to be advanced to him monthly during the scholastic year; but interest to commence to run on the amount advanced on each year at the end of the year. Having

no tuition to pay, a young man with close economy may be able to get along upon that sum; and many who have part of the means necessary will not desire so much.

"I earnestly urge upon each recipient of the fund the importance of paying back the money as promptly as possible; and I trust each will consider it a sacred obligation, as the payment increases the amount to be loaned to others, who will be anxious to receive the same benefits enjoyed by himself.

"If there should be a larger number of promising young men apply for the benefits of the loan than can be accommodated, then I direct that the trustees of the university provide for a selection of recipients from time to time, in such manner as in their judgment may be most fair and equitable. My wish is that they may be selected as impartially as may be from all parts of the State, so that each section may be represented. If there are many applicants and it can conveniently be done, I think a competitive examination might be best; but there will, no doubt, be many cases where this cannot be had without difficulty, and where the young man is very bright and worthy, in which case the appointment can very safely be made without a competitive examination.

"I wish such young men selected as are bright, and of good moral character, apt to learn, in reasonable health, and ambitious to prepare themselves for usefulness. I do not wish to make a donation to students, but to place a fund in the hands of the university which it will loan them in aid of their education, to be paid back by them as aforesaid.

"I desire the amount paid in by each student in return for the money he has received be added annually as it is paid in to the principal sum above mentioned, and only the interest upon it to be loaned in future, which will from time to time enable the university to increase the number of young men to whom it can make loans. This will ultimately increase the amount of principal, which in course of time, if properly managed, will grow to a large sum.

"I trust the Legislature of our noble and beloved State will make provision for receiving this accumulation into the treasury from time to time, and issue its bonds to the university in lieu of it, as the fund may accumulate. But if, contrary to my desire and expectation, the State, after having given its obligation for the principal sum of the donation above mentioned, shall at any time refuse to issue its bonds for the accumulated fund, or shall, at the end of fifty years, refuse to issue its bond or obligation for the principal sum of fifty thousand dollars, and shall pay the same over to the university, then the board of trustees may in each or either of said cases invest such funds as may accumulate, in the bonds of the United States or of other States.

"The general provisions above mentioned are subject to the following qualification:

"I desire that the sum of one thousand dollars interest accruing annually

from the said principal sum of fifty thousand dollars, as above mentioned, be used by the board of trustees aforesaid to aid young men to pursue their studies in the North Georgia Agricultural college at Dahlonega, upon the same terms as prescribed for students at the university at Athens, except that the students who may participate in the benefit of this fund at Dahlonega must be selected under such rules and regulations as the board of trustees of the university may prescribe (to be reasonable and just), from the mountain counties of northeast Georgia and the counties of Oconee, Pickens and Anderson, of South Carolina. Pickens district, now Oconee and Pickens counties, contains my birthplace. My life, up to the commencement of my manhood, was spent in the district of my birthplace in South Carolina, and in the mountains of northeast Georgia; and the first credit I received for money in aid of my education was in the county of Anderson, South Carolina, in which Calhoun academy, where I commenced my studies, is located.

"The mountain section above mentioned was the theatre of my early struggle with poverty, in my attempt to educate myself; and I wish to pay its people who have sympathized with and supported me in every emergency, this small tribute of my grateful recollection. As the amounts loaned students at Dahlonega are returned, I wish them to be added to the principal which is set apart out of the sum of fifty thousand dollars donated as above, to raise the said sum of one thousand dollars annually for said college at Dahlonega, so that it may accumulate as in case of the fund set apart for students of the university at Athens, both being placed upon the same principle of accumulation.

"If the North Georgia Agricultural college should at any time be discontinued, which I trust may never occur, and any other school or college of like grade should take its place at Dahlonega or in any of the mountain counties of northeast Georgia, that is not denominational in its character, the benefits intended for the North Georgia Agricultural college at Dahlonega are to be transferred to the students of such college or high school as may be selected by the board of trustees of the State university, to take its place in said section of country.

"If, unfortunately, there should be at any time in the future no such school kept in said section of northeast Georgia, for as much as five years, then the fund set apart for that purpose shall be transferred to the university at Athens, and become part of the fund, to be expended in aid of the students there in the manner and on the terms already mentioned.

"If there should be any year when there are not enough applicants for the fund, of good moral character and promise, to consume the amount of interest accruing during that year, the accrued interest not so used is to be added to the principal and placed at interest to be applied to the purposes already designated.

"In case of the fund to be loaned to young men at Dahlonega, as living is cheaper than at Athens, I direct that not more than one hundred and fifty

dollars annually be loaned to any young man, while engaged in the pursuit of his studies, to be paid to him monthly, the interest for each to commence at the end of the year. The amount in each case may seem small, but a young man without means, who is not willing to live economically to secure an education; or who is willing to go in debt to obtain larger means to be expended in better living or for greater display at college, is not, in my opinion, the person most likely to succeed, or most worthy to be trusted with funds which he is expected to return.

"Any young man who pursues his studies for the purpose of preparing himself for the ministry in any of the churches, and who, after the completion of his studies, devotes his time and talent under authority of his church to the work of the ministry as his profession or business, shall only be required to return to the university one half the amount received by him with interest as aforesaid.

"Any young man studying to prepare himself for the profession of medicine, may pursue his studies at Augusta, where the medical department of the university is located.

"No part of the fund herein mentioned shall at any time be paid as fees, commissions, salary or otherwise to the trustees or any officer or agent of the trustees.

"As the fund is donated to aid poor but worthy young men to secure a liberal education, I have full confidence that the trustees and officers of the university, with whom I have acted so long, and their successors will, as heretofore in all cases connected with their trust, administer this as part of the funds of the university for the good of all, for the usual salaries which the officers would receive if no such fund existed.

"If it should at any time become necessary to employ counsel to collect money due from any one who borrowed it as a student, and is able to pay it back and who refuses to do so, then it will be expected that the usual fees be paid to such counsel, and some attorney might, in such case, be employed to look generally after such collections, and see that the university does not suffer loss by inattention to such collection.

"I reserve to my four sons, Julius L. Brown, and Joseph M. Brown, Elijah A. Brown, and George M. Brown, each the right to select one young man to receive the benefits of the loan and, as the one selected graduates or leaves college, to select a successor, so that each may constantly during his natural life keep one student of his own selection in the university, as a recipient of the use of the funds necessary in his case, subject to the regulations above specified, and in case any one or each of my sons shall select a kinsman as near to him as the fourth degree of consanguinity, such student shall have the benefit of the fund free from the obligations to refund it to the university, if my said son so direct, all other selections to be made under the rules and regulations to be prescribed by the board of trustees, as already mentioned.

"And my said sons and the survivors or survivor of them shall have all the usual rights of visitation, with power to see that the trust assumed by the board of trustees in behalf of the university is justly and faithfully administered, and, in case the trust is unjustly, illegally or wrongfully abused, to proceed in the proper court to recover back the funds for the use of my legal heirs; but neither my heirs nor any one of them shall have the right to recover back the said fund on account of any technical or inadvertent failure to carry out the trust, if there has not been an important or substantial failure to do so.

"The survivor of my said four sons may by his will appoint some one with like power of visitation, if he thinks proper to do so.

"JOSEPH E. BROWN."

Gov. Brown's letter was referred to a special committee of the board, who reported in favor of the acceptance of the gift.

"Report of the committee unanimously adopted.

"The select committee to whom was referred the communication of Honorable Joseph E. Brown to the board of trustees, made this day proposing a donation to the university of fifty thousand dollars on certain terms and conditions therein expressed, have duly considered the same and beg leave to report the following:

"Resolved, That the proposition of Honorable Joseph E. Brown to the board of trustees of the University of Georgia, made this day, be accepted upon the terms and condition therein expressed.

"Resolved 2d, That this board, for themselves and in behalf of the people of Georgia, tender their thanks to him for this munificent donation.

"Resolved, That a committee of five be appointed by the president of this board to make known to the donor the action of the board upon the proposition to present the matter to the next Legislature, and ask that an act be passed carrying it into effect, and to see that the papers are recorded according to his request.

"ALEXANDER H. STEPHENS,
G. F. PIERCE,
A. R. LAWTON,
D. A. VASON,
J. A. BILLUPS."

OBLIGATION OF GOVERNOR BROWN.

"The board of trustees of the university having by resolution accepted my proposition to donate to the university fifty thousand dollars to be known as 'The Charles McDonald Brown Scholarship Fund,' subject to the conditions mentioned in my communication of this date, I hereby bind myself,

my heirs, executors and administrators to pay into the treasury of the State of Georgia for the benefit of the university, subject to the terms mentioned in my said communication, the sum of fifty thousand dollars in cash so soon as the Legislature of the State, at its next session, shall have passed an act binding the State to receive the funds and give her obligation to the university for the said fund payable fifty years after this date, with semi-annual interest at the rate of seven per cent. per annum. And I desire the communication, resolution of acceptance, and this obligation recorded on the regular minutes of the board of trustees, and in the office of the clerk of the superior court of Clarke county, Georgia, for preservation.

"JOSEPH E. BROWN."

"Executed in the presence of H. V. M. Miller, president *pro tem*.

"William L. Mitchell, secretary.

"James Jackson, chief justice of supreme court of Georgia."

Incredible as it may seem, this munificent act of large-hearted and noble-motivated benevolence, inspired by a pathetic bereavement, framed with a consummate wisdom to accomplish good, giving material aid to the great cause of higher education, and placing our venerable Mother University of Georgia upon its feet in a period of languor, met with opposition at the hands of a small portion of the citizens of the State, who were politically hostile to the generous donor. A few vigorous jeremiads were put out in one or two hostile journals and several speeches were made against it in the Legislature. Constitutional scruples were raised. It seemed strange and foolish for intelligent men to be erecting argumentative obstacles in the way of a valuable State benefaction. It was a poor compensation to worthy young men for the loss of educational facilities tendered them to hear the law makers split hairs and raise quibbles over a grand benefit. The objections seemed puerile to the great masses of the people who saw in the act an exalted piece of disinterested philanthropy, a timely help to the State University, a liberal benefaction to the poor youth of Georgia, and a splendid contribution to the cause of education.

The bill to accept the donation failed in the House of Representatives to receive the constitutional majority of eighty-eight votes. Perhaps no more complete answer could be made to the feeble objections to the superb gift than the following letter of Senator Brown to Col. J. H. Estill of Savannah, in reply to one from that gentleman on the subject.

“ WASHINGTON, January 3.

“ COL. J. H. ESTILL, SAVANNAH, GA.

“ *Dear Sir* :—In reply to your letter calling my attention to the objections that have been made to the terms upon which I proposed to make a donation of \$50,000 to the University for the purpose of aiding poor young men to obtain a liberal education, I have to state that the hard school of adversity through which I had to pass in the days of my youth, and the great difficulty I had in raising the means to secure what education I received, caused me naturally to sympathize with young men who are placed in the situation I then occupied. And as it was my wish to do something to aid the cause of education, I did not see any other use to which the fund might be so profitably applied.

“ Many of the brightest and most promising young men in Georgia are the sons of the poorest parents of the State. Others have parents in moderate circumstances, but with large families, who are entirely unable to give their children a liberal education. The wealthy, whose sons have the means to go to college, possess great advantage over this worthy class of bright and most promising young men, whose parents have not the means to educate them and who have not the means to educate themselves. Many of these would make leading men in the State and ornaments to society if in early life they could borrow money enough, with close economy, to educate themselves. My observation has been, as a rule, that that class of men are the most energetic and likely to be the most useful. With sincere sympathy with this class, and a desire to place them nearer than heretofore upon an equality with the sons of the rich in the advantages they so much need, I determined to contribute of my means as liberally as I felt in condition to do, to establish a fund, the income of which should be perpetually devoted to that character of education, upon a basis that the money borrowed by young men and paid back by them should constantly increase the fund, so that in the lifetime of the University it would grow to be a sum large enough to reach all the poor young men of the State desiring it.

“ In addition, however, to this view of the subject, it is due to candor that I state that I had lost a most promising son, who had just reached manhood, and who had been a student at the State University; who, if he had

lived, would have inherited the money that I proposed to donate to the University. And I had a desire—which, if founded in a mistaken view of the subject, I trust was a pardonable mistake—to perpetuate the name of my beloved son, now no more in this world, in connection with this fund.

“The question then presented itself to my mind, are there any constitutional difficulties in the way? and I looked carefully into the provisions of our State Constitution, and satisfied myself, beyond all doubt, that there were none. In the first place, I found that the whole scope and spirit of the instrument is intended to encourage the Legislature, and even the counties and municipal corporations, in making appropriations for the education of the people, first in the primary branches, and then to encourage the State University, and a university or college for the colored people. In connection with this general scope and object of the Constitution, I find that those who framed it intended to encourage citizens of the State, or of other States, to make donations for the purpose of education. The language of the Constitution under that head is, ‘The trustees of the University of Georgia may accept bequests, donations and grants of land or other property for the use of said university.’ In providing that the trustees may accept bequests or donations, it certainly intended to encourage citizens of the State or other liberal minded men to make to the university such bequests or donations.

“I did not feel, therefore, that it would be the policy of the State, if I tendered a donation of this sort, to reject it, but supposed it would be the policy of the representatives of the people to accept; and, on any terms that were reasonable, to encourage not only that but like donations from liberal citizens. Taking this view of the subject, I naturally concluded that in construing sections or paragraphs of the Constitution that might be considered as limitations upon the power of the Legislature in taxing the people and appropriating money, or incurring debts by the State, that a liberal construction should be put upon such paragraphs in favor of common school education, in favor of appropriations to the University, and in favor of encouragement of bequests or donations to it. In this view of it, if I had found language that was doubtful as to the right of the State to accept a donation upon the terms proposed, I should still have believed that it was the duty of the members of the Legislature to put a liberal construction on the instrument to meet such a case, and to encourage such an endowment. But I find no such difficulty in the Constitution. It is true I find limitations as to the right to issue bonds, or to incur indebtedness on the part of the State, but they do not deny to the State the power to incur a debt in a case like the one now under consideration.

“When I looked to paragraph 1, article 7, section 3, of the Constitution, I found this language: ‘No debt shall be contracted by or on behalf of the State, except to supply casual deficiencies of revenue, to repel invasion, suppress insurrection, and defend the State in time of war, or to pay the existing public debt; but the debt created to supply deficiencies in the public revenue shall not exceed in the aggregate two hundred thousand dollars.’

"Here, among other things, the power is given to incur a debt to supply the casual deficiencies in the revenue which does not aggregate more than two hundred thousand dollars, or a debt may be contracted to pay the existing public debt.

"Now, as is well known, we have a debt of some nine millions of dollars. Portions of it are falling due frequently. In a short period more than three millions of it will fall due in the same year. Nobody expects that the people of Georgia will be taxed three millions to pay a debt coming due that year. How shall we meet it? We shall doubtless issue new bonds and exchange them for the maturing bonds, or put them on the market and sell them and get money with which to pay the maturing bonds. Does anybody hold that the State is obliged to tax the people to pay every obligation as it falls due? If so, why the exception to the rule giving to the Legislature the right to contract a debt to pay the existing public debt? It seems to me that is too clear for argument.

"The Hon. N. J. Hammond, Chairman of the Committee appointed by the Board of the Trustees of the University, drew the bill that was before the Legislature with great care, after all the able lawyers on the Board of Trustees, except General Toombs, had approved the donation on the terms prescribed. The bill required the money to be put into the treasury and to be paid out to the maturing bonds of the State, and a new bond or obligation to be given to the University to run for fifty years, bearing seven per cent. interest. How did this violate the Constitution? It might possibly have had to lie in the treasury awhile before any bonds matured in the payment of which it could be used. But as soon as fifty thousand dollars of the bonds did mature, why might it not have been used in the payment of these bonds, and a new bond or obligation given to the University for it? By what fine-spun distinction can the right of the Legislature to accept money for the benefit of the University and give a new bond, and the right of the Legislature to accept money from anybody wanting to purchase a bond and issue a new bond, be maintained where the object in both cases is to pay the money to the public creditor?

"But it has been said the rate of interest is too high. The State could borrow money at four per cent. It is true, when she issued what are called her baby bonds, at four per cent., paying commission for the sale, as I have been informed, they were disposed of. But it was mostly to corporations that used them, by paying them back to the State for railroad property purchased, etc. It would be a strain upon the public credit of Georgia that her citizens might not care to see, to place her four per cent. bonds on the market in the present condition of things. But I suppose no constitutional lawyer will deny that the State has the right to issue bonds for money received and used in payment of maturing bonds, or that the Legislature has the right to fix the rate of interest, and that it might legally in such case be fixed at seven per cent. That is the rate of interest fixed in

Georgia between man and man, where there is no contract varying it. That is precisely the rate of interest fixed in the law now upon the statute book, where the State bonds held by the University are maturing. The law provides in such case that the Governor shall take up the maturing bonds and issue new bond or obligation to the University running fifty years, at seven per cent., payable semi-annually.

"I looked at the law, which I found upon our own statute books as applicable to the University, and placed my proposed donation upon precisely the same terms. I simply said, as you take up the maturing bonds of the University, and give new bonds at fifty years at seven per cent. semi-annually, I will add fifty thousand dollars to the endowment if you will take that sum and give the bond or obligation of the State running for the same time, at the same rate of interest which you pay the University in new bonds, on all State bonds which she may hold as fast as they mature. Was this unreasonable? Why should the State refuse to pay the same rate of interest on money (which I give the University) which she pays on money received from the land grant fund?

"Again, suppose the Legislature could borrow money at five per cent. and issue bonds of the State in payment, and suppose any other citizen than myself were to point to the provisions in the Constitution which relate to the encouragement of education and to the encouragement of the University for the white as well as for the colored race, and to the encouragement of donations; and such citizen were to say, 'I will give you \$50,000 to aid in the education of a most worthy class of young men who have always been denied the benefits of a liberal education, which \$50,000 you could not borrow for less than five per cent., if you will give a seven per cent. bond, contributing two per cent. out of the treasury to aid that class of young men, and to advance the objects contemplated by the Constitution.' Think you the Legislature would have rejected a proposition put in that shape from any liberal citizen not in public life, who might have made the tender, even if there had been no statute, and no law on the statute book prescribing the rate of interest which the State allows on her maturing bonds to aid the University? How could the Legislature do so much in aid of the University for so small a sum in any other way as it could by adding two per cent. to the rate of interest at which it could borrow money on all donations that might be made to the University? In such case the donor furnishes the capital, and, in effect, pays to the University the five per cent. per annum which the money would be unquestionably worth, and the State pays only two per cent. on the money without furnishing a dollar of the capital, a very small proportion. The University in this way would produce wonderful results for the future, at a nominal cost to the State, if donations could be secured on these terms.

"However, I simply claim in this case that as my donation is admitted to be a liberal one, the State should, in my opinion, have taken it for the benefit of the class of poor young men for whom it was intended, and at the same

rate of interest that she pays on other funds belonging to the University, which accrue from her maturing bonds owned by the University. Why make a distinction between the interest the State will pay on my donation and the interest it will pay on other funds due the University? Is that the way to encourage others to make liberal donations to the University to aid in the cause of education? Experience will soon show whether it affords such encouragement.

"The sons of wealthy men have so long had the advantage and received the chief benefits of the University that it may be thought by part of that class and their representatives that it is an innovation to open a way for the brightest class of the sons of the poor. If my donation had provided for better facilities for the sons of the wealthy, it might have met a different fate at the hands of some of those who sat in judgment upon its merits.

"But a word more on the subject of interest. If I were simply seeking popular applause, what need I care whether the State paid seven per cent. or four per cent. on the moneys? In either case I would have given the fifty thousand dollars to the University, and in neither case would a dollar of principal or interest come back to me. The only question was, whether the poor young men should have the benefit of the larger or smaller rate of interest. In the one case, the fund would have educated a larger and in the other a smaller number of those for whose benefit it was intended.

"But it is proper to notice one other point. Objection was made that I appointed my sons visitors, as the law would term it. In other words, that I reserved to them the right to see, during their lifetime, and to the survivor of them, the right to name in his will a person who may see in his lifetime that the money is not squandered or recklessly wasted. Or, in other words, that the trust is carried out and the money applied to the uses for which it is given. That is all the right of visitation means. As every one acquainted with such matters knows, it is one of the most common provisions in case of donations made to colleges wherever the English language is spoken. In the English colleges, even the endowment of a scholarship is usually accompanied by such provisions against waste or misapplication of the fund. In that country the rector of a parish, or some person or corporation where there is perpetual succession, is frequently made the visitor. In my case I only proposed that the right of visitation, or the right to look after the fund and see that it is not squandered or misapplied, last for two lifetimes. The lifetime of the University runs through centuries, therefore, in comparison with the whole term for which the donation would run, the right of visitation is reserved for but a fractional period. And then only for a substantial violation of the trust, not on account of any technical error or unintentional mistake.

"This is only securing to my sons, by direct reservation, what the common law, as expounded by the ablest authors, gives to the heirs of every founder who endows a college, to wit: the right in case of a substantial failure to carry out the trust, or a gross or wilful misapplication of the fund,

to call the persons whose duty it is to execute the trust to account in the courts. Who will deny the justice and propriety of such a provision for the preservation and protection of the fund, and to secure its appropriation to the uses for which it is given?

"But it is complained that I reserved to my four sons, during the lifetime of each, the right to select one young man who is to have the benefits of the donation. One of the principal troubles the Board of Trustees will have will be in the proper selection of the young men who are to be benefited. As the fund accumulates it would during the lifetime of the University run into millions of dollars, and there would be two or three times as many poor young men enjoying the benefits as there are now students in the University. But even during the lifetime of my sons, it might run to fifty or one hundred a year. Was it unreasonable to say that each of them might select one? Or, if it run to only twenty a year at the commencement, was it unreasonable, as I gave the money, that each of my sons select one of them? If I had retained the money as a part of my estate, it is reasonable to suppose that they would have inherited it at my death. Therefore, each is to that extent a part contributor, and the reservation of the right of each to select one of the beneficiaries seems to me to be reasonable. No matter how large the fund grows, or how large the number of beneficiaries, they would each still have the right to select only one. If the number reached one hundred, and my sons were all in life, they would select four and the trustees ninety-six. If two of them should be dead, the survivors would select two and the trustees ninety-eight.

"But another provision is objected to, and that is, that in case the person selected is a relative, my son may, in his discretion, relieve him from paying the money back. Whether this would have ever occurred in a single instance is very doubtful. There might have arisen a case where a relative might have been educated under the provision, and, on account of some misfortune, it might have been their pleasure to relieve him from the repayment of the money, with the four per cent. interest, as required of other young men. But as the object of this donation is to make worthy young men who are poor feel that they are not charity scholars, but in an independent, manly way that they are borrowing money to educate themselves, it would be neither my wish nor the wish of my sons to relieve a relative from the repayment, unless in some case of affliction or misfortune. And in the case of some one selected by the trustees, not a relative, there would probably occasionally be a failure to return the money to the University.

"Again, suppose some of the relatives of my sons should be educated out of the fund, would it not be reasonable to suppose that as educated citizens they would be as serviceable to the State as young men not related to us or selected by them who might be educated in the same way? And as it would be done with money donated by me, who would be wronged, as ten, probably fifty, not related would get the benefit for every one of my relatives who received it?

"But it has been said the act was intended to give to my sons some sort of advantage or political ascendancy in Georgia. How could this be? The three who are of age are all settled down in regular profitable business pursuits. No one of them has shown the slightest disposition to engage in politics, and it is not probable they ever will. But if they should, what advantage would the fact that I had given \$50,000 to the University, and that they have the right to see that it is not recklessly squandered or wasted, be to them in political life? The idea is simply absurd. I leave the country to judge of the motives of those who make such groundless appeals to popular prejudice, or to what they doubtless suppose to be popular ignorance.

"One other point. It is objected that I give some advantages in the selection of beneficiaries to the young men of the mountain section of our State, including three counties in South Carolina, which contain my birthplace, and the place where I had my earliest struggles with poverty in my effort to educate myself. It may be true that the feeling of love and veneration we cherish for our birthplace, and the scenes of our youth and companions of childhood are mere sentiment. Be it so. It is a sentiment that finds a lodgment in every generous nature, and a response in every patriotic heart—a sentiment which I shall cherish to the latest moment of my life, and upon which I shall delight to act on every appropriate occasion.

"Again, it has been said the State does not wish to borrow money from me at seven per cent.

"I do not wish to lend any to the State. I only proposed to donate to the University \$50,000 to aid poor but bright and worthy young men in obtaining such education as they need and wish at the University and at its branch at Dahlonega, if the State would take the money and use it in payment of her maturing debt, and pay to the University (not to me) the same rate of interest which by her own statute she binds herself to pay for fifty years, on all her bonds now owned by the University, as fast as they mature. Not a dollar of the principal or interest, if the donation were accepted, is to be paid back to me, or to any child or children of mine. Every dollar of it is to be expended in the education of young men in the State, which would result in incalculable benefit to the State. It could result in no more personal benefit to me or my children than to any other citizen of the State. The right of visitation to see that the fund is not wasted, but applied to the uses for which it is given, is reserved to my sons, and the right during the life of each to select one of the young men to be educated is also reserved. This is all. Not a dollar of pecuniary benefit is reserved to me or to them. Not a dollar of the money is to be returned to us. Not a dollar is to be loaned to the State by me or them. Fifty thousand dollars was offered as a gift to the University, if the State would take it and pay the same interest she pays for other funds belonging to the University.

"However, I have made this letter longer than I intended. I wish you to understand fully my view of this question. If I was actuated by any

unworthy motive I am not aware of it. I of course regret that the House of Representatives feel it its duty, no matter by what motives prompted, to reject the donation, as I had hoped it would result in great benefit to the mass of the people whose sons are now excluded from the benefits of a liberal education. It is still my fixed purpose to appropriate that sum to the very object contemplated in the proposition to the University and Legislature. I intend to do so either in or out of the State, upon as nearly the exact plan as possible, simply because I think the plan is right in itself. It is true I shall regret it, if the action of the representatives of the people denies to the sons of the class of people for whom it was intended, this benefit, and compels me to give it to the young men of that class in another State, when I would greatly prefer that our own young men who so much need it, should have the benefit.

"I beg to assure you I do not feel hurt personally at the action of the Legislature. I believe, on calm reflection, after they have consulted their constituents, possibly the representatives of the people who voted against accepting the donation may realize the fact that they have made a mistake. Taking the mildest view of it, I do not think it can be claimed that their action will have a tendency to encourage other like donations to the University, or to those struggling to obtain such education as is taught in any department of the University which fits them for the profession or business in life which they expect to follow.

"I have written the above that my own views and motives in this matter may be fully understood. I shall engage in no discussion—no controversy. I have said all I expect to say. I cannot importune the people or their representatives to accept a large sum of money as a gift from me for a purpose or in a manner which they do not approve. Each citizen of the State who feels enough interest in the subject to look into the facts will form his own conclusions as to the propriety of my course in the premises, and as to the wisdom of the act rejecting the donation.

"Possibly the application of the constitutional test to some other acts and resolutions of the Legislature as compared with the constitutional scruples which prevented the passage of the act to accept my donation might not be uninteresting to the public. But as I decline controversy, I shall not enter upon the comparison, nor shall I inquire into the motives which prompted action in either case.

"Very respectfully, your obedient servant,

"JOSEPH E. BROWN."

It must have been a temptation to any man to forego a generous purpose so unkindly treated. The public sentiment, however, began to speak in thunder tones in condemnation of the legislative action, showing that

the cavilling of a few croakers was not the feeling of the people who warmly appreciated the philanthropical act. But Senator Brown is not the man to be thwarted in his charities any more than in his business or politics. He has always a habit of grasping victory at an unexpected moment when his adversaries are in the very repose of fancied triumph, and by some cool, easy stroke achieve success so complete as to take the breath away.

The following letter of his to the trustees of the State University explains the new movement that he made, viz. : the purchase of the bonds and their tender to the institution. This movement demonstrated that he was sincere in his generous intent and that he had both falsified and circumvented his objectors.

“ ATLANTA, March 31, 1883.

“ *To the Trustees of the University of Georgia :*

“ *Gentlemen :—*On the 15th of July last I proposed in a written communication addressed to you to make a donation to the university of fifty thousand dollars for the purpose, and upon the terms and conditions therein mentioned. One of the requirements of the proposition was, that the Legislature of Georgia at its next session should provide for receiving said sum into the treasury of the State, and for the issuance of fifty thousand dollars of the bonds of the State to the university in place of said amount, having fifty years to run with seven per cent. interest payable semi-annually. The Legislature met at the usual time in November and adjourned without having made provision for the receipt of the money and the issue of said bonds to the university. The proposition was accepted by your honorable body when made by me, but as the Legislature did not make provisions for issuing the bonds I suppose neither party is now bound by the proposition or acceptance.

“ It is still my desire to appropriate that sum of money for the education of poor young men in the University of Georgia, as specified in said proposition. And with a view of avoiding all misunderstanding on the subject and of placing this amount in the hands of the trustees of the university, for the purposes above referred to, I have purchased fifty thousand dollars of the valid bonds of the State of Georgia, which are not now due but will mature on the first day of April, 1883, and I propose now to deliver said fifty thousand dollars in the above bonds of the State of Georgia to the trustees of the University of Georgia, as the property of said university, for the same uses

and upon precisely the same terms, except as herein modified, as are set forth in my written communication to this board, dated 15th of July last, the said bonds on delivery to this board to become the property of the university for the uses and upon the terms above mentioned, upon the condition subsequent that the trustees of the university shall within a reasonable time, say within two months from the maturity of the bonds, through their duly authorized agent or officer, present at the treasury of the State for redemption the said bonds as the property of the university, and shall receive from the Governor of the State, in lieu of said matured bonds so presented for payment, an obligation or obligations in writing in the nature of a bond in amount equal to the principal of the bonds, so presented as provided in an Act to make permanent the income of the University of Georgia and for other purposes, approved September 20, 1881.

"This will place the bonds, which I now propose to donate to the university through this board, upon the same footing precisely as all other bonds of the State belonging to the university are placed by the Act of 1881. I have the bonds now present ready for delivery if this proposition is accepted.

"JOSEPH E. BROWN."

Senator Brown in the purchase of these bonds had to pay a large sum of premium, which made the donation, so far as he was concerned, much larger than the \$50,000. The trustees of the university assembled, and, with the single dissenting vote of General Robert Toombs, accepted the bonds. Quite a lively episode occurred in the Board. General Toombs spoke against the acceptance of the bonds, claiming it unconstitutional. Senator Brown asked him if he had not taken position before this that under the new Constitution the Legislature had power to borrow money to donate to the university. General Toombs replied promptly in the negative. Senator Brown admonished him to think carefully, and asked if that had not been his position. General Toombs insisted that it was not and had not been. Senator Brown drew a letter from his pocket, written by General Toombs, which he explained had come into his possession under the following circumstances: Mr. Elam Alexander had made a gift of money to the trustees, to be used for educational purposes under

the act of 1859, which authorized the governor to receive the money into the treasury and issue bonds in lieu of it. Colonel Whittle, one of the trustees, was in doubt whether he could pay the money into the treasury and get the bonds, or whether the Constitution of 1877 repealed the law of 1859 under which the bonds asked for could be issued; and he sought the opinion of several leading gentlemen, among them General Toombs. Colonel Whittle then sent three of these responses, including that of General Toombs, to Senator Brown, requesting his view of the matter. Senator Brown wrote indorsing the issuance of the bonds; and as the subject was one of public importance and General Toombs' letter an emphatic one, he had taken copies of the three letters, which he expressed the desire to retain if it was not deemed inappropriate by Colonel Whittle that he should do so. As no objection was made by Colonel Whittle, the copies were still in his possession. Senator Brown continued his remarks before the Board, stating that he should not feel at liberty to read the letter if General Toombs objected, at the same time he would do so if General Toombs was willing.

General Toombs replied curtly to read anything he had written. The letter was read and made a sensation, containing as it did a decided opinion that the Constitution of 1877 did not repeal the law of 1859, and that the governor could issue a bond for the Alexander donation. The letter also contained the distinct statement that the Legislature had the right, under the Constitution of 1877, to borrow money to donate to the university. In view of the questions and answers that had preceded the production of the letter, its reading created a decided sensation in the Board. The letter placed General Toombs

of the past against General Toombs of the present, and his failure to remember his former attitude made his present position all the weaker, and entirely nullified his argument. The trustees voted for the acceptance of the bonds; thirteen for and one—General Toombs—against. After the bonds fell due the trustees applied to Gov. Jas. S. Boynton for the new security, and on the eighteenth day of April, 1883, that Executive issued a single bond for \$50,000 at seven per cent. interest, due in fifty years, under the act of 1881; which was the precise thing asked by Governor Brown when he tendered the cash donation to the university. The bond was written on parchment. There were already fifty or sixty young men applying for the benefits of the fund. Governor Stephens took a profound interest in this gift and looked forward to it as the means of incalculable good, and as the operation on a large scale of his own life-long system of educational aid to young men.

The more that this plan of Senator Brown to aid the university is considered, the wiser does its philosophy appear. There is a twofold benefit in it, to the beneficiaries and the university, that could not be realized under, and that gives it infinite superiority over, an ordinary donation. The young men who get education under it do so in a manner that fosters their independence and requires them to treat their schooling as a debt to be repaid and not a charity. The moral effect is much better upon their characters, and induces the spirit of pride of sentiment, and a habit of self-denial to get the means to repay obligation, and the self-respect due to self-reliance, the honorable freedom from burden, and the proud consciousness that success is due to their own labor.

The advantage of this scheme to the university over all other possible plans of endowment is that the repayment of the interest loaned to the students steadily increases the principal of the fund and enlarges the usefulness of the institution. It was certainly a sagacious and far-seeing brain and heart that devised a plan so masterfully promotive of the interest of both student and college,—a plan so original and perfect in conception and detail, that the thoughtful mind is amazed that any prejudice could have found objection to it. As time passes and the State becomes permeated with the educated beneficiaries of this grand gift,—men of education and influence,—and as the university grows in its expanding capacity for educating the poor but intellectual and aspiring youth of Georgia, trained, by this very ordeal to get and pay for learning, to the discipline that makes good steady men, the wisdom and benevolence of the author of this noble scheme, and his fame as a public-spirited philanthropist, will broaden and brighten, resting upon the enduring basis of truth and the public welfare. Senator Brown has erected in this superb educational endowment a lasting monument to his young son, whose name it bears, so sadly removed, and to his own genius and philanthropy. And he can safely repose upon this substantial ground his claim to the permanent and grateful remembrance of the people of Georgia.

This volume may properly end with this splendid incident. It may be proper, however, to refer to the exceptional position that Senator Brown occupies in relation to the distinguished public men of Georgia. Twenty years ago the State had a larger array of great political leaders than any State in the Union. Those illustrious spirits, recognized giants in eloquence and statesmanship, have

recently passed away almost in a body. The old landmarks have disappeared rapidly. Herschel V. Johnson, Hiram Warner, Benjamin H. Hill, Alexander H. Stephens and Charles J. Jenkins—five of our strongest Georgians, men of national fame and contemporaries of Joseph E. Brown in the great events of the last two decades—have one by one gone in a brief while. Senator Brown has aided in the funeral obsequies of nearly all of these eminent sons of Georgia. With Mr. Stephens he was closely allied by links of friendly affection, and at his burial Senator Brown delivered a beautiful and feeling eulogy.

Of the older leaders of a quarter of a century ago but two remain, General Robert Toombs and Senator Joseph E. Brown. General Toombs is about to retire from public life. It is announced probably by authority that he is to give up business entirely. Senator Brown is, therefore, the sole active survivor of the grand galaxy of shining historic luminaries that made Georgia so powerful and so famous in the majestic events that preceded, constituted and followed the greatest civil war of human history. He is the connecting link with a momentous past, and yet the most potential representative that the State now has of the most vigorous and progressive statesmanship of the present. Of the generation of younger men, filling active public life, he is the admitted leader. What a position for any man to occupy, illustrious exponent of past, present, and future—type of the highest fame, and public service of all—symbol and link of the three eras in their most valuable public distinction!

It is a strange physical fact as typical of a curious inner philosophy that Senator Brown, who in early and middle life was a very plain person, has become a hand-

some old gentleman. He has gained some fulness, which always adds comeliness to a spare person, and his flowing white beard, expansive brow full of intellectuality, pleasant but searching eyes, and kindly expression of countenance make him a notable and attractive individual. He is one of those persons that every one can recall in every-day life, who were regarded as plain men in their young days, who have flowered under the beautifying alchemy of pure, brainful, laborious lives into handsomeness. Years of clean thought and successful endeavor, of domestic purity and intellectual action, of victorious ordeal mixed with enough of the inevitable chastening of sorrow, chisel the features and face into a certain comely result of these refining processes. An expressive countenance becomes rounded and softer, and a long, beautiful and useful life, by the steady attrition of grace and power, gives an increasing attractiveness to a noted face.

Senator Brown's career from this time onward must be one of increasing lustre and power. In renewed and strengthening health at the solid age of sixty, when English leaders only get fairly into power, his potential statesmanship ripened to highest maturity, backed by large wealth, he may reasonably look forward to political possibilities, if such he wishes, as no Georgian yet has compassed.

APPENDIX.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, IN THE SENATE OF THE UNITED STATES, JUNE 12, 1880, ON THE BILL TO PENSION SOLDIERS IN THE MEXICAN AND INDIAN WARS; AND ON RECONSTRUCTION AND THE RIGHTS OF THE STATES IN THE UNION.

On the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

Mr. Brown said :

Mr. President: This Government, after too long delay, granted pensions to the soldiers of the war of the Revolution without any qualification as to their wealth or poverty.

We had the war of 1812. A long time passed before there were any pensions granted to the soldiers of that war, but the time did come when the Government judged it was proper, on account of the valuable services rendered by them to their country, to grant pensions to the old and decrepit soldiers of the war of 1812. And I recollect no provision in that act that drew any distinction between him who was in the poor-house or the old soldier who lived in good style and had means to support himself. The pension was not for his poverty, but for the valuable service rendered to his country.

About thirty-four years ago we declared war against Mexico, and the soldiery of this country rallied under the flag of the Government and marched to that foreign soil, and achieved feats of valor the equal of which have scarcely been known on any other fields. They soon overran the country, humbled the government of Mexico, and dictated terms at its capital; and as the honorable senator from Texas [Mr. Maxey] justly tells us, we annexed as the result of that conflict of arms an empire of territory and an empire of wealth. The number of men was comparatively small who achieved this grand result. True, we have since pensioned the wounded and those who were disabled in that war. Time has passed along, and many of the old soldiers of the Mexican war, as it has been so well and so eloquently said by the able senator from Indiana [Mr. Voorhees], are becoming decrepit. They are now mostly old men; all except the youth who went in then are now gray-headed, time-worn, little able to work for their support.

My honorable friend, the senator from Kentucky [Mr. Williams], in this state of the case comes forward with his bill to pension those old veterans who were his companions in arms, and the gallant old soldiers of the Indian wars, and we are met here with amendments which seem to us to be intended to defeat this measure. I neither impugn nor question the motives of senators, but I say it seems to us this is the intention; and if the amendments prevail, that this is to be the effect. The amendment of the senator from Kansas [Mr. Ingalls] is in substance that all the soldiers who lately fought in the war for the preservation of the Union on the Union side are to be now pensioned. Another amendment, offered by the honorable senator from

Maine [Mr. Blaine], is, that the soldiers of the Mexican war are only to be pensioned where it is shown that on account of their poverty their necessities require it.

As I have said, that is an unusual amendment because it has not been incorporated in other bills granting pensions to soldiers who have defended the honor and the flag of their country. It is not a proper time now, I insist, to pension the Union soldiers indiscriminately, nor do I suppose honorable senators on the other side have any intention of doing so, because the period has not arrived which has brought them to old age, or that has caused them on account of their age or infirmities to be unable to work for an honest living. If it were the purpose of senators to vote to give them pensions indiscriminately now, it would then be the object of my amendment to postpone the operation of that part of the act till as long a period of time is past after the service was rendered as has already passed in the case of soldiers of the war against Mexico and of the Indian wars.

I think it cannot be justly asserted that we of the South have been illiberal in voting pensions to Union soldiers who were disabled by the war. But we insist that the cases are not parallel. It is not proper to put the Union soldier on the pension-roll by the side of the old soldier in the war against Mexico, because the length of time has not passed which disables him by age or infirmity from making his own living by his own exertions or his own labor.

Mr. Ingalls. Will it disturb the senator if I ask him a question?

Mr. Brown. No, sir; not at all.

Mr. Ingalls. Does he base the right or claim to a pension upon the lapse of time that has intervened since the close of the war in which the soldier fought, or upon the necessities of the soldier or his surviving widow? I should like an answer to that question.

Mr. Brown. I will answer the senator's question by asking him one. Does he in pensioning the wounded officers of the Union army base it on their necessities, or does he pension the poor and the wealthy who lost limbs all alike?

Mr. Ingalls. There is a class of pensions that are given to those who have specific disabilities resulting from gunshot wounds or loss of limbs, and injuries of that description. There is another class of what are called pensions to dependent relatives, where there is no injury to the person receiving the pension, but where necessity and indigence and dependence must be proved. But my question was for the purpose of ascertaining whether or not the senator believes that pensions should be granted simply upon the fact of lapse of time since the war closed, or upon the fact that there is a dependence and indigence and a necessitous condition that renders help from the Government desirable.

Mr. Brown. I think the period that has elapsed in case of the soldiers of the war against Mexico is long enough, and that the pensions ought to be granted; and the records will show that neither the senator nor his party, nor those on my side, have made any exception in the case of wounded soldiers in the Union army. As we have pensioned all alike without inquiring into their wealth or their poverty, we should pension all alike here without inquiring into their wealth or poverty.

Mr. Ingalls. So we pension all the wounded soldiers and officers of the Mexican war without inquiring into their poverty or their wealth. They all stand on the same platform.

Mr. Brown. Then it follows when the time has come that it is proper to pension the officers and privates who were not wounded, it should be done without any regard to their poverty or wealth.

Mr. Ingalls. Is it a question of time?

Mr. Brown. Yes; time has much to do with it, and when the proper time comes to pension the Union soldier, I care not if he is a millionaire, who was a faithful soldier and acted a gallant part, I would vote to pension all alike. All who did the same service should have the same reward.

Mr. Conkling. Will the senator from Georgia allow me a minute?

Mr. Brown. Yes, sir, with pleasure.

Mr. Conkling. He seems to be discussing this question with candor and fairness.

Mr. Brown. That is my intention.

Mr. Conkling. I believe it; and for his information and my own I beg to submit to him this proposition: I understand the senator to argue that time is the controlling matter, and that had thirty-three years elapsed he would be willing to vote for this amendment in favor of the soldiers of the Union. I think I am right so far.

Now I ask the senator this question, or rather I submit to him in the form of a query this impression of my own: Although the proportion of men of advanced age who served in the Mexican war is of course immeasurably greater now than in the case of men who served in the war for the Union, I think that, speaking positively, speaking of actual numbers, there is a far larger number of men advanced in age who served in the war for the Union than who served in the Mexican war, growing out of the fact that the whole number of enlisted men was so immensely greater. Forty-five years I believe was the limit of age which subjected men to the draft. Now, without saying that numbers of men volunteered who were beyond that age, the senator will see that a very large number of men who served in the war for the Union must be now upwards of sixty. The war for the Union broke out in 1861—in 1860 in reality, but I will say 1861; nineteen years ago. A man who was forty-five years old at that time is now sixty-four years old. Count all these men; and is there not a much larger number than of men surviving who fought in the Mexican war who are even as old as that?

I think the honorable senator will be compelled, if he will reflect a moment, to agree with me; and if he does, then I beg to ask him, assuming the whole force of his argument, why is it that, with laws now exactly equal toward soldiers of all the wars, we should come in and say that men sixty years old and upward who fought in the Mexican war shall be paid a pension although no injuries were received by them, and that a much larger number of men of equal or greater age shall not be paid a farthing unless they lost limb or health? It seems to me that the senator's argument would lead him to say that as to this much larger number at least of Union soldiers, the equities which he states applied quite as strongly to them.

Mr. Brown. Mr. President—

Mr. Blaine. If the senator from Georgia will permit me one word in further continuation of what the senator from New York has said—

Mr. Brown. I was just going to observe that when I yielded the floor to the honorable senator from New York [Mr. Conkling] to make an inquiry, I did not expect he would inject a speech into mine. To the senator from Maine I will yield with pleasure.

Mr. Blaine. I only want to inject a further observation, not a speech, and that is in continuation of the suggestion made. I do not believe a war was ever fought, certainly none on this continent, so exclusively by young men as the Mexican war was. It went with a whirl of enthusiasm through the Southwest of this country; the young men everywhere flocked to the standard, and I presume that *per capita* there never was a more irresistible army than marched into Mexico; full of enthusiasm, full of fire, full of youth.

venture to say, taking the age of the survivors,—I am only repeating, probably showing the other side what has been said already,—that you can find double the number of men over sixty years of age who served in the war for the Union that you can find of men who served in the war with Mexico,—double the number.

Mr. Conkling. Now at least double.

Mr. Brown. Mr. President, I have listened with patience and with a great deal of interest to the remarks made by the honorable senator from New York and the honorable senator from Maine. I have been entertained by the ingenuity with which they have presented their argument; and I have no hesitation in answering. My reply is, it will be time enough to meet and act on those questions when they come before the senate.

When the senators introduce an amendment here, which they have not done, to limit the period of the age at which a soldier who served in either of the wars shall draw a pension, I may then be prepared to say something on that subject. If the honorable senator from New York, for instance, chooses now to introduce an amendment to pension a soldier of the war for the Union who is sixty-five or seventy years of age, I may or may not be found voting with him. If he chooses to introduce an amendment here that a soldier who served in the war against Mexico shall not be pensioned until he has arrived at a certain age, I may or may not be willing then to vote with him. But no such question as that which the honorable senators have pressed on the consideration of the senate is now before us. I am discussing the bill with the amendments submitted; and I am replying to the arguments which have been made on those amendments. I say that the cases of the Union soldiers and the soldiers of the Mexican war are not parallel; because there were about two millions of men in the Union army and about one hundred thousand, I believe, in the army against Mexico; and the proportion of old men in the Union army that served any length of time may not have been much greater than in the Mexican war; but I presume it was something greater, because they were called out sometimes for mere local service for thirty days; and I give the senators the benefit of all that; but I say that does not affect the question we are now discussing. I will meet the question presented by the two able senators when it comes in shape for action before the senate.

The time has come when I think it is proper to pension the soldiers of the war against Mexico and the Indian wars; and when amendments come up as to limiting the period of time or the age when they shall have it, I will then consider that question. When interrupted by the three honorable senators I was discussing the amendment of the senator from Maine, by which he proposes to pension in the case of the soldiers against Mexico only those who are indigent; and I was attempting to show the senate that that was an exception never made heretofore in a general pension bill, and that it was not a proper one to make against the men who had performed the feats of gallantry and had achieved the grand results that the men did who fought against Mexico. That is about what I desired to say upon that point.

Now, Mr. President, a few remarks upon another point.

The honorable senator from New York [Mr. Conkling], it is true, did not say that the senators on this floor who fought on the Confederate side of the late war, which he terms the war of the rebellion, sit here by the grace of the Government, of the senators on the other side, or of the party to which the honorable senator belongs; but why, let me ask that honorable senator, was it necessary to throw out the idea on that point, that we sit here under circumstances where the title to our seats might at least by implication be questioned?

The honorable senator in his interrogatories to the senator from Texas desired to know whether the result achieved by the Union army in the preservation of the Union was not much greater, more grand and glorious than the result achieved by the soldiers in the war against Mexico. On this point I desire to say that I must suppose now that Providence overruled our efforts to secede from the Union, and I presume a wise Providence had a grand object in that result, and, if He had, He will doubtless continue to develop His designs until the achievements of the Union army in restoring the Union may be above comparison with the achievements of any other army that ever went into the field. If I am right as to the Divine will in this matter, then I trust these grand and glorious results may be perpetual, and may bring us with good government, unbounded wealth and unlimited prosperity.

But why, let me ask, are we thus told by the senator from New York, gently, delicately, mildly, that we hold title to our seats here by grace? Your armies fought, as you claimed, for the preservation of the Union; you could not preserve it without representatives from all the States in this chamber. The Constitution of our fathers, the compact of union of our fathers, requires that each State shall have two representatives of her own free choice in this chamber; and I care not how long a State has been in rebellion, when she lays down her arms and you refuse to permit her senators to come back into this Senate and occupy their seats you do that which you did not profess to do during the war; you destroy the Union of the Constitution by refusing to permit the different departments of the Government to perform the functions required by the Constitution.

The State of Georgia has a right to two senators on this floor under the Constitution of the country, and they hold their seats here by the grace of no political party, of no government, of no department of government, and of no other power on the face of this earth except a guarantied right under the Constitution of the United States. We sit here as a matter of right, and not as matter of grace.

True, we attempted to go out of the Union. I grant it. I was a secessionist, earnest and active; I mince nothing about it. Georgia sent about one hundred regiments into the field against you, organized by me as governor of my State or called in under the conscript act of the Confederate States, which, as all know, I did not approve. We fought you honestly. We were as earnest, as honest, as bold, and as gallant as you were in the struggle. We believed we were right.

Mr. Kirkwood. And believe it yet?

Mr. Brown. Yes, sir; I believe it yet. I say we were right on principle at the time. I will give the senator the full benefit, and then I will say frankly to the senator from Iowa two great questions brought the war about. They were slavery and our differences on the right of secession. Two great questions, the discussion and agitation of which shook this country from centre to circumference. Bold men, enthusiastic men, I may say patriotic men, each believing they were right advocated their own ground with zeal and ability.

We of the South believed we had a right to slavery guarantied by the Constitution of our fathers. The people of New England and Old England imported the slaves. You did not find it profitable to continue to use them, and you sold them to our fathers. As you did not find it profitable and it could be made profitable in the south, you sold them to our fathers, took their money, which you put into brick and mortar, factories, shipping and other profitable investments that built you up and made you a great people. I would detract nothing from your merits. I admire your industry,

I admire your educational institutions, and I admire your prosperity, and wish you well in it.

Your people, after the importation of slaves had ceased, became dissatisfied with slavery when we became prosperous with it, and without going over the ground so often occupied, which I do not intend to do here, suffice it to say we reached the point where you had elected a President on a sectional issue against the extension of slavery, and we of the South thought we saw in this no other alternative than the ultimate downfall of slavery, or the exercise of what we considered the inherent right of secession and withdrawing from the Union.

On this issue you resorted to arms to compel us to remain in the Union. We met you in the high court of your own choice, knowing that on the issue of that litigation was involved the question of slavery as well as the right of secession. I believed then and I believe now that the right of secession was inherent in the several States, but when we staked it upon the issue as joined we were bound honorably and in good faith to abide by the judgment of that highest of human tribunals, the *ultima ratio regum*. The result of that litigation in that high court of last resort was the arbitrament of the sword that slavery was abolished, perpetually, forever abolished, and must always remain abolished, and that ours is an indestructible Union of indestructible States. And as I said in the senate the other day, while I would have given my life then to maintain our institution of slavery believing it was for the best interests of both races, morally, politically, socially, and religiously, yet, if by turning my hand over to-day I could re-instate it I would not do so. I accept the result, feel bound by the judgment, and shall never move for a new trial. And I say the same as to the question of secession; I consider it forever settled.

I did think a State had the right to secede, and still think it had, but the decision of that high court, as already stated, was against the right and against my judgment of the right, and I feel bound by that decision, which settled the question finally, perpetually, forever.

Now, will the senator from Iowa please put that with the other answer? That is where I stand. I hold that a great war like the late war between the States always settles something. The war of the Revolution settled something. We went into that war the subjects of Great Britain; we came out a free country, with free and independent States. There was no question that the English government had the right to control us as colonies under her charters before that war. It is equally clear that she has no right to do it now. Why? Because the war settled that question and settled it forever. It settled it against England; it settled it in our favor, and we are no longer the subjects of the British Crown. In this view of the subject it must be admitted that wars do often legislate, or at least they decide disputed rights.

Mr. Kirkwood. Will the senator allow me?

Mr. Brown. Not this moment. The parallel, to some extent, of the war of the Revolution is the war of the rebellion, as you term it, and as we must all term it on account of our failure. At the time we did not so consider it. If we had succeeded we would have been patriots and heroes, but having failed we were rebels; consequently we must accept the term "the war of the rebellion." That war settles it permanently and absolutely that slavery is dead and that the right of secession is lost and gone forever, just as the war of the Revolution settled the fact that we were no longer colonists of the English government. But while that was true, it did not settle the fact that the States had no rights in the Union. It settled and settled perpetually, the question of our right to go out. That will never be contested

again, but we stand with whatever reserved rights we originally had in the Union under the Constitution, with the perfect right of State representation upon this floor, without favor or grace from any quarter, and with the perfect right of local self-government as practiced by the fathers, limited only by the new amendments to the Constitution. And so has the Supreme Court of the United States in effect decided since the war.

Many of the senators on the other side were Whigs originally, and I will admit that we stand to-day in this Government more nearly upon the original platform of the Whig party than that of the Democratic party, to which I belong and in whose fold I was reared. We cannot now stand to the full extent upon the doctrines of Mr. Jefferson and Mr. Calhoun, because the war, so far as the right of secession is concerned, has settled that against us; but we can stand upon the doctrines of Clay, Jackson, and Webster as to the rights of the States. And there is where I think we do stand, and where all States and parties should continue to stand.

Now a word further in reference to our right to be here. I admit at the end of the war, when we were the vanquished you were the conquerors, and I as an original secessionist, believing we had gone out of the Union and had been conquered, admitted your right to dictate the terms as conquerors.

When President Johnson committed the great mistake of not calling Congress together and submitting his plans to them before he attempted to reconstruct the Southern States, and dictated his terms, I advised our people instantly to accept them. Why? Because as I understood it we had seceded and you had made war upon us, and in that war you were the conquerors, and you had a right to dictate the terms; and as the President alone, in the absence of Congress, represented the conquerors, I bowed to his dictation. We had no one else to appeal to.

When Congress assembled, and the Republican party, being largely in the majority, repudiated his action and took the matter in hand, you dictated terms that we of the South thought very hard; but hard as I thought they were, as a matter of *necessity* and because there was no escape from it, I advised our people at once to recognize your authority, acquiesce, and promptly comply with your dictation. We had tried resistance to your authority when we had nearly half a million of gallant men under arms, and by your superior numbers and resources you had decimated our ranks and compelled us to surrender. At the end of the struggle you had, I believe, over twelve hundred thousand troops organized and on your muster rolls, in service and ready for service. Having failed to make effective resistance while our armies were in the field, I saw no hope of it after they had surrendered and you remained armed and equipped in all the plenitude of your power. In this state of the case I was satisfied the wisest thing our people could do was to agree with the adversary quickly. I thought it of the first importance to get back into the Union and get rightful representation in Congress as States, even upon the unjust terms of your dictation. And I so advised our people.

It is true I went through a hard ordeal on account of that advice, but I have never yet regretted it, because I thought it was best for my section and best for the whole country. And I think it will be generally admitted that time has proven the correctness of my judgment. I then stood upon the platform of acquiescence in the reconstruction measures dictated by Congress. I still stand there. The Democratic party of the whole Union stands there to-day, and has stood there for the last eight years. I supported Grant in 1868. The national Democratic party supported Greeley in 1872. It seemed to me we were then together again. And I have constantly acted

with them since then. But at that time other eminent gentlemen differed with me. They were honest as I was. I impugn the motives of nobody. I only speak of the history of those events. I am aware, gentlemen, that you considered us still very rebellious, because the section to which I belonged, the States lately in rebellion, did not instantly acquiesce in everything you dictated. Let us look at this a little and see if you ought not to have viewed our course with a little more fairness, not to say charity. It seems to me justice required that in passing upon our acts you should have taken into the account our true condition and the great embarrassments of our situation.

We may have made a great mistake in going into the war. I think, however, there was no other way on earth to get rid of the slavery question. It was only a question whether we would fight it out or our children would have to fight it out. Be that as it may, we went into it a wealthy people. We lost by the results of the war over two thousand million dollars' worth of slaves. We supported our own armies for four years out of our substance. It is true the Confederate government and the States issued bonds and notes, but at the end of the war you required us to repudiate them absolutely; and I admit you had a shadow of reason for that. It was said there were Union men in those States, and Union men had a right to go there and settle, and that no Union man should be taxed for the purpose of paying the war debts of the Confederate States. That was the most feasible grounds on which you put it. Suffice it to say that you required us to repudiate those obligations, and the result was as stated, we supported our armies for four years out of our own substance.

Then we returned to the Union as soon as you would let us. It is true we were in rather an awkward dilemma for a time. During the war you said we had no right to go out; that we never were out; that our ordinances of secession were nullities; that we were all the time in the Union. Well, we surrendered, after we had made as gallant a fight as we could, and we came back with our representatives ready to acquiesce in your theory, and in good faith resume our place in the Union, and you refused to admit us. You said we were in while we were fighting you, but we found we were out when we laid down our arms. However, after a long struggle you did admit us, but on what terms? You, by the fourteenth constitutional amendment and the reconstruction acts, disfranchised every man who had held office and taken an oath to support the Constitution from voting for delegates to the conventions held under the reconstruction acts, and after that period, not from voting, but from holding office until relieved by Congress.

Well, now look at that. You will at least admit that the people of the South were a gallant people. And you can readily imagine how keenly they felt terms of that character. They thought it was hard, even cruel, that you should impose such terms; but you did impose them. Furthermore, when you finally let us back into the Union, we of course had to assume our part of the expenses of the war on your side. In other words, in proportion to our means we had to pay our part of the debt contracted for the support of the Union armies, and not only so, but we have to pay our part of the very large sum that is now annually appropriated to pension Union soldiers, and I grudge not a dollar of it to them, for they were gallant men fighting for their honest convictions. On the other hand I think you should sympathize with the poor maimed soldier who on our side felt that he was fighting in as sacred a cause as yours, and believed he was right, who can draw no pension because he was on the weaker side.

But that was not all. You set our slaves free as I have said, and then very soon after that, you put the ballot in their hands to go to the polls by the

side of those who had lately been their masters and owners, and exercise the elective franchise.

Now I beg senators to remember that all these things taken together were very trying to a gallant people. A people who had gone into the war from honest conviction that they were right, who had lost in the contest under circumstances like these, would very naturally feel the defeat and the terms imposed by the conqueror keenly; and it would have been remarkable if there had been no riots, no bloodshed, no lynch law, nothing there to disturb the quiet of society. It is only remarkable, when we think of all we had to undergo in the reconstruction period, and the losses of the war, and the irritations growing out of it, where every family had lost a father, a brother, or a son, to say nothing of property, not that we should have had so much of disorder, but remarkable that we did not have more of it. Place yourselves in our situation, with our misfortunes, and tell me if you think your people would have acted with greater moderation or less of violence.

Now the senator from Kansas [Mr. Ingalls] tells us that if this Bill passes we put upon the pension-rolls a portion of the old Mexican soldiers and the soldiers of the Indian wars who fought in the war of the rebellion under the rebel flag. I have no doubt that will be so, because they were as gallant a body of men as you ever knew when they fought under the Union flag. And when their section was invaded, and they were satisfied they were right, they rallied to arms and they did fight like heroes under the rebel flag. But, after all the hard terms you put upon us, after all we have had to suffer, as just recited, are these gallant old heroes to be still further punished? Is the bloody shirt to wave forever? Is there to be no time when the offence of fighting gallantly for honest convictions is condoned?

We do not ask you, senators, to pension them because they fought in the war of the rebellion, but give them pensions because they fought in the war against Mexico, under the flag of the Union. You say you forgive the balance. You do not require us now to take the oath that we did not engage in the rebellion before we can hold office. You permit the mass of our people to go to the polls by the side of their former slaves and vote. Why, then, will you make the point here, that these old heroes served in the rebel army, when asked to give them pensions for the service done upon a foreign field under the Union flag? I think senators on the other side will not be so illiberal as that. It seems to me to be illiberality. Now, when the war is over, and you have dictated the terms and enjoyed the results, you might at least be content to waive further reference to the conduct of these gallant men, who were acting under honest convictions during the late civil strife, and give them pensions for valuable services rendered to the Union. Why not?

While on the floor I want to say a few words about another subject that is not exactly germane to this issue, but I shall not have another opportunity, and as it is in reply to remarks that dropped on the first day I sat in the senate from senators on that side, I ask your indulgence. It is in reference to the treatment of the colored race by the people of the South since the war. I know that much was said about sworn testimony as to riots and bloodshed in the South soon after the war. Much of this testimony was from sources wholly unreliable and unworthy of credit. But I have admitted that there was some of it, and have given you the reasons for it. Now allow me to tell you that that day has passed. In my State—and I can speak more certainly in reference to it because I am better informed there—we have as orderly a community to-day as senators from the northern section of the Union have in theirs. Law and order reign supreme, and he who inflicts an injury upon a colored man must answer for it to the law. Not only that; the colored race has behaved well; they are working well, and we feel most kindly toward

them. Why should we not? They were raised in our households; the master and the mistress of the premises had the responsibility of looking after and caring for them. That responsibility added to the common dictates of humanity and our interest in them made us treat them well. There were some bad slaveholders as there are some bad husbands and guardians in Northern States; but such was not the rule.

When the war came the newspapers on your side predicted that it must be of short duration because our negroes would rise in insurrection and soon disband our armies. Well, I confess we were not without some apprehension on that subject, and they could have disbanded Lee's army any moment they had risen in insurrection in the rear. I mention that to show you the kindly understanding that existed between the two races at the time. There was no bad feeling there between them, and during the whole period of the struggle, where they were not torn away from us by the Union armies intervening, they behaved as well as any race could behave, and I take pleasure in testifying to it.

When General Sherman invaded the territory of my State and I called out, in addition to the very large number in Confederate service, the old men up to fifty-five and the boys down to sixteen, it was an extraordinary levy on account of the invasion. The whole manhood of the white race was in the martial field and the whole manhood of the colored race was in the corn-field and the cotton-field. They had it in their power to disband our armies, but they did not choose to do it, and when the news would come of one of Lee's or Stonewall Jackson's brilliant movements and splendid victories, I have seen them throw their caps high into the air and shout for joy over it. The only inquiry was, "How is Massa John or Massa Tom? Is he out safe?" Hence I say we have no reason to feel unkindly toward them.

Then again at the end of the war when you gave them the ballot by our side, without education, without training, without any state of probation, it was certainly a dangerous experiment. We anticipated, it is true, great trouble, and we did have trouble, because that class of men called carpet-baggers, who were adventurers, who had no stake at home, came down and took charge of them and often misled and deceived them, and in that way we had trouble; but take it altogether they behaved then—and I take pleasure in testifying to it—better than probably almost any other race would have done under similar circumstances. Then I say we are not hostile to the colored race. We are their friends and they are our friends.

Now, a little further. Soon after the war, and during the reconstruction period, the question of their education came up. It was a very vexed question. The leaders of the two races came together when the first Legislature under the reconstruction acts was in session—and a considerable proportion of it was colored—to confer on that subject as to what was best to be done. I recollect a delegation of them came to my office—I was then on the supreme bench as chief justice of my State—and asked my advice about it, and I know they asked the advice of other gentlemen very freely. I said, "We cannot have mixed schools; you build a school-house for your children on one hill, and we will build for ours upon another, and we will divide the money with you honestly and faithfully; you shall have your honest *pro rata* according to the number of children you have within the school age, and though we have to pay it—and as a people we are left very poor—we believe it right that you have your part of it, and we will see that you get it." At the time we could not make large appropriations for that purpose, but we did the best we could and divided the fund fairly. It has since increased till I see by the last report of our able State school commissioner we now raise and apply to public schools in our State about \$100,000 annually.

Mr. Teller. I wish to ask the senator what Legislature he speaks of ?

Mr. Brown. I speak of the Reconstruction Legislature, the one immediately after the Reconstruction convention.

Mr. Teller. The senator, I suppose, does not speak of the Legislature that assembled before the ballot was given to the colored people in his State ?

Mr. Brown. Before what, sir ?

Mr. Teller. You had a session of the Legislature before the colored people were given the ballot, had you not ?

Mr. Brown. Yes, there was a session of the Legislature under the Johnson government, as you may term it.

Mr. Teller. In the Legislature that assembled after reconstruction the negroes had control of the Legislature by their numbers, had they not ?

Mr. Brown. No, sir ; there was not more than a third ; I do not remember the exact number, but my recollection is there was not quite a third of the members who were colored men. The white men had the control of the Legislature.

The question came up also as to the education of their sons at college, and they asked what about that. We said to them, "In the present state of feeling here if you send your sons to college with ours, there will be trouble and probably it will break up the college, but we will build you a college ; select your place ; we will appropriate money out of the treasury to construct your buildings for you, and we will appropriate exactly the same amount annually to your college that we do to our own, or if you will adopt a college that a noble charitable society of New England has already located in Atlanta, and they will waive the denominational feature, we will adopt that as the colored college of the State, and we will make the appropriation to it.

Prior to that time we had appropriated annually \$8,000 to our State University. That year we appropriated \$8,000 each to the college for the whites and the college for the colored. A colored member went into the Legislature and moved that the schools be kept forever separate. A white member thereupon moved that the colored race should have their fair proportion of the fund. Both propositions were adopted and a fair division was made. It was just and it was right. It was true one of the executives of the State since did recommend that the \$8,000 a year to the colored college be discontinued for what he considered good reasons, but after the question had been thoroughly canvassed in the Legislature the appropriation was made by a majority so overwhelming that there was scarcely any division upon it. Then when our convention of 1877 met, which framed our present Constitution, they incorporated into it the fundamental principle that the State should continue to make suitable appropriations to maintain a colored college.

The city of Atlanta maintains a system of public schools. It employs sixty-odd teachers in the public schools. They are paid out of the treasury by taxation of the people. Part of the schools were built for the colored race and part for the white, and they have had equal justice there all the while, and there is no complaint whatever ; at least I hear none, and I have been a member of the board since its organization. Therefore I say the colored people are satisfied. We have given them fair play in the educational system of the State throughout.

We employ the colored people. They are the best laborers we can get. You may talk about German immigration, Chinese immigration, or any other immigration into the State, I would not give the negro as a laborer in the cotton-field for any man of any race. They are laboring there faithfully and we are paying them justly, and we intend to continue to do so. Many of them are accumulating property. We are glad of it. We feel kindly toward

them. We wish them well. You made them citizens and we now wish to aid them to be good citizens, and to become useful members of society. To that end we shall do all in our power.

I know I should beg the pardon of the senate for making this digression, as it is not germane to this particular debate; but while on the floor I have asked the privilege, because I think some honorable senators on the other side the other day, from the tenor of their speeches, whatever may have been the case in the past, did not understand the facts of the case or the relations as they exist between the two races in our State at the present time.

Now, Mr. President, I have gone through substantially what I desired to say. I have already said that we are paying our part of the taxes to pension your wounded soldiers, and we do not grudge it to them, though we deeply deplore the fact that ours have no pensions. The only chance, probably, for the South to have a little in return is for you to give pensions to the old Mexican veterans, and veterans of the Indian wars. I know senators on the other side cannot be charged with want of generosity; but, I ask, is it generous in the present state of the case to refuse a little pittance to those men who composed that grand army of invasion of Mexico, the superior of which, according to its numbers, has never been known upon the planet that we inhabit? I appeal to senators to withdraw the objection, and, at least, do that much for the men who served so gallantly under the flag of the Union so long ago, both in the Indian wars and the Mexican war, and do not lay to their account the fact that, pursuing their honest convictions, they have since served their own States and their own section in what you term the war of the rebellion. It seems to me, after all that has been condoned and all we have suffered, that might be passed over on this occasion, and that your magnanimity might prompt you to act liberally toward them.

When we returned to the Union we did so in good faith. The question of the right of secession is settled forever, and with its settlement our faith is pledged to stand by and defend the Constitution and the Union. In the field you found the Southern armies to be brave men, and brave men are never treacherous. Should our relations with foreign powers at any time involve this government in war, the people of the North will have no reason to complain of the promptness, earnestness, and gallantry with which the people of the Southern States will rally around the old flag and bear it triumphantly wherever duty calls. If that emergency were now upon us, the comrades in arms of Sherman and Johnston, who once confronted each other with such distinguished heroism, would rally together in the cause of the Union, and, vying with each other, would perform such prodigies of valor as the world has seldom witnessed. This being the present condition of the country, the present feeling of the great masses of people on each side, let us do justice to each other, restore cordial and fraternal relations, and folding up the bloody shirt let us bury it forever beyond the reach of resurrection: and let us unite in the enactment of such laws as will show to the world that we are once more, not in name only but in reality, a united people, ready to do equal and exact justice to all. And let us move forward grandly and gloriously in united efforts to restore to every section of the Union substantial, growing, material prosperity; and we will then bring to the whole country peace, happiness, and fraternal relations. This seems to me to be a consummation devoutly to be wished by the patriotic people of all parts of the Union.

SPEECH OF HON. JOSEPH E. BROWN, IN THE UNITED STATES SENATE,
WEDNESDAY, DECEMBER 15, 1880, ON THE EDUCATIONAL FUND.

On the bill (S. No. 133) to establish an educational fund, and apply a portion of the proceeds of the public lands to public education, and to provide for the more complete endowment and support of national colleges for the advancement of scientific and industrial education.

"This bill, reported unanimously by the Committee on Education and Labor, proposes to consecrate the proceeds of sales of public lands to the education of the people. It will not interfere with the rights of pre-emption nor with entries for homesteads, and leaves unimpaired the claims of any State to its percentage of the sales of public lands. As the amount of such sales will hereafter be small, it is proposed to add to this educational fund the net proceeds of all receipts for patents after deducting the expenses of the Patent Office. The entire fund is then to be invested in United States bonds and the interest annually apportioned to the several States and Territories upon the basis of population between the ages of five and twenty-five years, except that for the first ten years the apportionment is to be made according to the numbers of their population, respectively, of ten years old and upward who cannot read and write; with the further provision that one-third of the income from the fund shall be annually appropriated to the more complete endowment and support of colleges established, or such as may hereafter be established in accordance with the act of Congress approved in 1862, until the annual income of each shall amount to \$30,000; and thereafter all beyond that sum is to be devoted to the education of the children of the several States and Territories, including the District of Columbia, between the ages of six and sixteen years. Authority is also to be given for the acceptance of any sums which may be donated for these objects by will or otherwise."

Mr. Brown said:

Mr. President: I have listened with a great deal of pleasure to the able and eloquent argument made by the honorable senator from Vermont [Mr. Morrill] in favor of the passage of the bill now before the senate. We live under a republican form of government. The stability of that government depends, in my opinion, upon the virtue and intelligence of the people of the United States. We are exposed all the time to tests of the permanency and stability of this form of government. When we had a sparse population of but a few millions scattered over a very large territory, with no large masses of people congregated together in great cities or centres, we were in a condition better adapted to the maintenance of republican government than we shall be when we have a hundred millions of population crowded in the centres and upon the older settled portions of our territory, where large masses can congregate upon short notice. In that condition, if we have large masses of ignorance, understanding nothing about the form or principles of the government, we have little to expect in the future. It becomes, therefore, important that we should educate the mass of the American people if we expect to perpetuate American institutions.

Not only is this true as far as it relates to the Government, but the public interest requires that we have the whole intellect of the people developed and cultivated for the purpose of building up and improving society. Neither the intellect of this country nor of any other country is confined to children born of the nobility, the aristocracy, or the wealthy classes. Neither Disraeli nor Gladstone was born of the nobility, and yet to-day the destinies of England and of the British Empire are controlled by the intellect of these two competitors. Though born neither of the nobility nor of the royal family, they say what the Crown shall do, what the nobility shall do, and what the commons shall do.

So it is in this Government. The intellect of the people of this country is not confined to the sons of the aristocracy or the wealthy classes. George Washington was a surveyor; Benjamin Franklin was a printer; Roger Sherman, I believe, was a shoemaker; Andrew Jackson was a penniless or-

phan; Henry Clay was a mill boy; Daniel Webster was the son of poor parentage; Andrew Johnson was a tailor, who when married could neither read nor write; his wife taught him to read; he was self-educated and self-made; General Grant was a tanner; the great commoder, ALEXANDER H. STEPHENS, was a poor orphan boy; Abraham Lincoln split rails and labored in his youth with his hands for his living; and I believe the President-elect, General Garfield, was born of poor parentage.

Then it is true that in this country as well as every other the intellect of the country is not confined to the sons of the wealthier or the ruling classes; and I maintain that the State has a right to have the intellect of the whole country developed out of the mass of the wealth of the country and brought into action for the protection of society and the building up and development of the country. How can this be done? Only by the education of the children of all classes of society. I have no doubt many a man has lived in the United States, of intellect as grand as those I have mentioned, who has died unknown to fame. Why so? Because no circumstance has led to the first stage of development that has made the person himself conscious of his own powers. That bright boy has never been sent to school; he has never been taught even the first rudiments of a common education; he has been confined to labor in the backwoods, in the factory, in the shop, or in the mines, and while he may have been regarded there as one of the most intellectual of his comrades, there has been no development that showed his powers to either him or them, or that gave the country the benefit of those powers.

Educate the whole mass of the people and you have the benefit of all this power. Let me illustrate. The honorable senator who has just taken his seat was too modest to refer to it because he is from New England, but we find a noted example there. When the Puritans, as we term them, landed in this country and located themselves on the bleak shores of New England, they commenced building up society by the organization of churches and the building of houses of worship, and they located the school-house near the church. They established a system of common schools that was intended to embrace the whole population and to give every child an opportunity to have a common education. They commenced early and laid deep the foundations of their universities and colleges. The result has been that they have endowed and built up colleges of a very high order, where immense numbers of the young men of this country have been educated.

Go out through the mighty West and over the Territories to the Pacific Ocean, and what do you find? Where was the member of Congress or the senator in this hall educated? Usually at a New England college. Where was the minister of religion, or the village doctor, or the lawyer, or the local politician educated? Most of them in the New England colleges. Thus they carried New England ideas with them all through the West, which have controlled in the organization of society and the legislation of States, and in that way New England may be said to have dictated laws to the continent. Her ideas, taught to the youths that have gone out West and scattered all over this broad land, have been carried along and ingrafted upon society, and we are obliged to admit that they have done a great deal in controlling the destinies of the country.

It was not only so with New England; but there is another very noted example worthy of our attention. I refer to the Kingdom of Prussia. At the time Napoleon the First led his armies over Europe like an avalanche, and swept down kingdoms and empires before him, Prussia was a third-class power, devastated by the ravages of war. At the end of the great struggle, in making preparations to build up society, she early took into account the importance of educating the whole mass of her people. She en-

dowed universities liberally; she established a system of public schools throughout the entire kingdom, and she not only by her legislation from time to time made provision for the education of all her children, but she made their education compulsory. She permits no father who has been the means of bringing offspring into society to say, "I will not permit my child to be educated; I will not send him to school." She says: "The State has an interest in it and it shall be done." The law requires the parent to send the son, and then the State gives him the rudiments of an education. He must have it; the good of society requires it; the law compels it.

How did it work? From a third-rate power Prussia rose rapidly to a second-rate power; and within the last few years the test of strength came between the Kingdom of Prussia and the Empire set up by Napoleon, when his successor, a wise statesman, was upon the throne. What was the result? That little third-rate kingdom, overrun by Napoleon the First, had risen to be a power in Europe, and when the struggle came Prussia swept over France, dethroned the monarch, the successor to Napoleon the First, and dictated terms to France upon her own soil. Why was it so? It may be said she had abler generals; that her armies were better handled. There was another reason; she had a better educated people. Her whole people were educated. Every man felt an individuality in what he was doing, and then she had all the best intellects of the kingdom educated to fill the different places where it was necessary to have ability. A government that educates all her brightest intellect has greatly the advantage of one that educates only that portion of her intellect that is born in the wealthier and higher classes of society.

Under the Prussian system, as I understand it, if a boy shows great brightness and is intellectually adapted with proper training to the position of a professor of chemistry, he is carried through the university, and he is fully developed and educated in that department of science. If another shows great talent for the military, he is passed through the military department; and if he has a master mind, he is made a master of the military profession; and so in each department. Therefore, when Prussia called upon her sons to rally under her banner, she had her ablest intellect cultivated in their respective positions, and they were ready to step forward and fill each place with a first-class man. This was not so with the French. They have colleges and universities of the highest order; they have education of the highest order; but they have not the whole mass educated as they are in Prussia. There may have been some of the ablest generals by nature and some of the most useful men that the army could have required in other positions who were in the ranks, whose power was not known because they had not been developed by education, and therefore the state lost the benefit of their mental powers. I say the state has the right to the aid of all the mental power of its people, and it can have it in no other way than by the education of all the masses of the people of the state. And this should be done by the aid, as far as necessary, of all the wealth of the state.

Take our own country, to-day. In the backwoods, among the mountains, peradventure away out among the Rocky Mountains, or down in the wire-grass of the South, there is many a bright-eyed boy, who has intellect of the highest order, in one of the humblest cottages or cabins of the land. And there, if neglected, he may stay and work his way through life with no opportunity to show the power he possesses. But send him to the common school and let the rough be knocked off that diamond until it begins to glitter, and you cannot then stop him. He will go forward, and the more the diamond is polished the brighter it will sparkle, till it shines out in all its brilliant splendor and magnificence. But this could not have been done

without education enough to show what was in the boy. Therefore, without the education of the mass of the people and of the whole people, you cannot have the benefit of the whole intellect of the country brought to bear in the building up of society and the development of the resources and power of the state.

But there is another good reason, Mr. President, why those who come from my section of the Union should advocate this measure. The honorable senator from Vermont [MR. MORRILL] referred to the fact of the large illiteracy of the people of the United States. He did not carry it out and show to what States or sections this illiteracy applies most. I regret to say it is from my own section. There are several reasons why it is so. Under our old system of society we looked more to the education of the ruling class than we did to the education of the whole mass. In other words, we did not, as they did in New England, furnish the money to establish systems of public schools where all the children could be educated, but we educated our children through the means of private schools, where only the wealthier classes and those who were well-to-do could send their children. Consequently there was a larger number of illiterate persons in our society than there was in the society of New England or any other State that had a properly endowed public school system.

But this was not all. We had there a large slave population, amounting in round numbers to four millions at the time they were emancipated. Under our system as long as we kept and used them as slaves it was regarded unsafe to educate them. Therefore their education was neglected, and it was a very hazardous experiment when they were made citizens without education.

The honorable senator from Rhode Island [General BURNSIDE] referred to the condition of the Scotch people at a time when they were not educated, and told us how degraded they were and how they were looked down upon, and to the elevation that they afterward attained when by a common-school system they were educated up to a high point. Let me follow his example and trace something of the history of another race of people. Take the African race, and go back two and a half centuries, and where were they and what were they? They were heathens; they lived on the continent of Africa in a state of the wildest ignorance and most savage barbarity. The different tribes engaged from time to time in warfare, and in many instances the rule was indiscriminate slaughter; but if they took prisoners they were spared, out of no mercy to the prisoner, but because he was valuable to them to be sold as a slave. At the period when this country was first settled those wars were raging on the continent of Africa, and it was then considered, not only by the tribes themselves but by Old England and New England, that they were proper persons to be made slaves. Companies were organized for the purpose of engaging in the importation and traffic, and it is said that the reigning queen and afterward the kings of England owned stock in those companies. In that day it was believed to be right.

I do not mention this subject now with a view of bringing up any mooted question about slavery, but I am speaking of the history of the negro. All then considered slavery was right. The negroes were imported into this country as slaves and sold into slavery from British vessels and the vessels of New England. They were sold to us in the South. We bought them, we believed it was right to buy them, and they believed it was right to sell them. In a word, at that time the negro was considered as only fit to be a slave, and fit for nothing else, and he occupied a much more degraded position than the Scotch did at the time referred to by the honorable Senator from Rhode Island.

And just here permit me to refer to a chapter in the history of my own State. The original charter of the colony of Georgia made it a free State, and the trustees for a number of years persisted in their refusal to permit negro slavery or rum to be brought into the colony. Finally it was discovered that the adjoining colony of South Carolina and other southern colonies that had adopted slavery were more prosperous than that of Georgia, and the people from the other colonies refused to emigrate to Georgia and stay there unless they were permitted to carry their slaves with them. About that period in our history, John Wesley and George Whitefield, the two great divines who under Providence were the founders of Methodism, and who planted the church on our soil, associated themselves with the colony at Savannah, and Whitefield established his orphan asylum, which was intended to be and was in fact a noble charity. After considerable effort to sustain it, he came to the conclusion that it was his true interest to purchase a plantation and slaves in the colony of South Carolina, which he did, and which he declared did much to enable him to maintain his asylum. And this great divine became one of the ablest and most zealous advocates for the establishment of slavery in the colony of Georgia. Finally the pressure upon the trustees became so great that they yielded, and slavery was permitted and soon became an established institution. I simply mention this to show that in my own State slavery was prohibited by law at a time when the people of the mother country and of New England were importing slaves under the sanction of law without a question that the traffic was legitimate.

Slavery was found to be unprofitable in New England and the Middle States, and, like every other traffic, it was carried where the commodity was most needed and would pay best. Consequently the slaves were sold by the ancestors of the people of New England and the Middle States to our ancestors in the South, and the money obtained for them was doubtless invested in building up your towns, your factories, and your commerce. At that time, however, neither section believed that the other was doing wrong in engaging in the importation, the traffic, or the use of slaves.

Thus matters passed for a long period. Slavery was recognized by all, and the savages imported as slaves were trained here in the practices and ideas of civilization till they were very much elevated in the scale of Christian civilization before slavery was abolished. They were taught not only the principles of civilization but the principles of Christianity.

I well recollect, years ago, before the war between the States, in one of the assemblages of the Presbyterian Church in New York, the Reverend Dr. Stiles used in substance this noted expression, "the southern church holds up to the gaze of heaven and earth more converted heathens (referring to our slaves) than can be shown in heathen lands as the result of the labors of all the missionaries of all the Protestant churches combined." Yes, of this four million people we held up a large number who were converted to Christianity and reclaimed to civilization. In other words, Providence seems to have had a great design in this matter. They were brought here as slaves; indeed they were prisoners and slaves at home and sold as such by their own people. We used them as slaves, and we believed we had the right to do so. And while they were going through this long training of slavery they were improving all the time intellectually and morally. But the time came when the same overruling Providence that permitted them to be brought here as slaves determined in His divine decrees that they should no longer be slaves. And who can say that it is not the design of Providence that the descendants of those who by the rulers of Africa were sold into slavery, improved and elevated by slavery till they were fit for freedom, may not be the instruments in the hand of God in redeeming Africa from the darkness and thralldom in

which she is now shrouded, and in bringing her to the marvellous light of Christian civilization?

But let us notice further the remarkable history of this people. The two sections of the Union were arrayed in hostility against each other on the subject of slavery. If you of the North had proposed to tax yourselves and pay us for the slaves, in the then temper we would not have agreed to accept it. We would have said, "We have constitutional guaranties that we shall hold them, and you must not interfere." On the other hand, if it had been proposed to tax the people of the United States to pay for them and liberate them, the people would have submitted to no such taxation. Therefore that was impossible. The passions and prejudices on both sides of the line were aroused into active play. There was but one way to eradicate slavery, and that was to tear it out by the roots; and as Providence was working out a great problem, we were plunged into the war between the States, and the institution was staked upon the result. Neither side contemplated abolition at the commencement, but as Providence designed it, the termination of the struggle was the abolition of slavery.

Here, then, was another step taken in the wonderful development in connection with this race. From having been prisoners of heads of tribes in Africa and sold by their own people into slavery, and from having gone through a long period of servitude, the time had come when Providence determined they should no longer be slaves. But as our friends of New England and the Northern States had engaged in the importation of them and had sold them to us, and made profit by it, and as we had used slavery and made profit by it, and no section could charge that another was alone responsible, every section and every part of the Union had to bleed for it, and we all had to bear burdens to get rid of it. But we are rid of it.

When the Constitution of the United States was formed, slavery was not only tolerated and provision made for the surrendering up of fugitive slaves to the owner on requisition, but at that time the States were not ready to cut off the importation; those engaged in the traffic wanted to make more money out of it. They were unwilling to give it up, and it was insisted upon and carried, and incorporated into the Constitution that the importation should not be abolished prior to the year 1808. So guarded were those who framed the Constitution on that point that in making provision for its own amendment, it is expressly provided that that clause shall not be amended prior to 1808. Then negroes were slaves, and slaves were property, and that property was guarantied to us by the Constitution of the United States.

But when we went into the struggle of 1861 we were well aware that if we failed we hazarded our title to our slaves, and that abolition was a possibility. At the end of the struggle, when we surrendered our armies and the then President of the United States adopted a policy without consulting Congress, of reconstructing the Union, he required us to call conventions in the Southern States; and the Congress having submitted to the States the thirteenth constitutional amendment, we adopted it. There was no contest made over it in the South. The Southern States, as well as the Northern and Western States, agreed at the end of the struggle that slavery should be abolished; and we put into the Constitution a provision that forever guarantied the abolition. Then the negro had taken one more step. From a slave he was a freedman without the rights of a citizen.

Then followed a proposition by Congress to the States to adopt the fourteenth amendment. That amendment declared him to be a citizen. In other words, it declared all persons born or naturalized in the United States to be citizens of the United States and of the State wherein they reside.

Then the negro had made one more advance step. From being a freedman he was now a citizen. But it was soon found that this was not enough. Very grave questions were raised as to whether a race who had been slaves and thus freed and made citizens were entitled to all the rights of the original citizens of this country; in other words, whether they had the right to vote and hold office; and Congress had to take one more step. That step was to propose the fifteenth constitutional amendment, which guaranteed to the race the right to vote. Then the negro advanced one further step. From being a citizen without rights as to voting and holding office he was made a citizen free and independent, with all the rights of any other citizen of the United States. Of course, I mean legal rights. He was made the legal equal of any and every other citizen of this Union. Social rights must take care of themselves; neither the Congress nor any other governmental power can regulate them. But all his legal rights were guaranteed. Then what was the status? Here are four million persons, formerly slaves, then freedmen, then citizens without all the rights of citizenship, then full-fledged citizens with every right of the citizen, turned loose among us, without education, incorporated into society as part of the citizens of the United States and of the States in which they lived.

A grave problem arises here for solution. They must be educated; but we are not able to educate them. Why not? We claimed to be a wealthy people before the war. So we were; but we lost, according to the best estimates, about \$2,000,000,000 in the value of our slaves. It was that much gold value, our own under the Constitution of the United States, which we lost by the war, and it was gone forever. That impoverished us to that extent and it was a very heavy draught. Then we had to support the Confederate armies for four years without a dollar of help, out of our substance. True, we issued Confederate bonds and notes; they were paid out for our substance, but at the end of the war they were repudiated and they became as ashes in our hands. We lost, then, not only two billions in slaves, but we lost about two billions more in the support of our armies for four years. Then we lost immense amounts in the destruction of property by the armies outside of what was necessary to feed and clothe them.

But that was not all. At the end of the struggle we had to return to the Union and resume our position and take upon ourselves our just proportion, according to our means, of the war debt contracted by the Government in the suppression of what is known as the rebellion. Then, I say, with these draughts upon us we are not able to educate these four millions of people that were turned loose among us. As I have already stated, during the period of slavery it was not our policy to educate them; it was incompatible, as we thought, with the relation existing between the two races. Now that they are citizens we all agree that it is our policy to educate them. As they are citizens, let us make them the best citizens we can. I am glad to see that they show a strong disposition to do everything in their power for the education of their children.

Then I say the provision of the bill that gives for ten years at least the advantage to the States where there is most illiteracy is a just and a wise provision, and I thank the senators from New England and the other wealthier States for the sense of justice they exhibit in coming forward and showing a willingness to aid in the education of these people. We all agree that it is important that they be educated. You will agree with me that we in the Southern States are not now able to educate them, and our own children. They were set free as a necessity of the Union. You so regarded it. Then it is proper that the Union should come forward, and with its vast resources aid in their education, and I am glad to see a movement made that looks in that direction.

I confess I have better hopes for the race for the future than I had when emancipation took place. They have shown a capacity to receive education, and a disposition to elevate themselves that is exceedingly gratifying, not only to me, but to every right-thinking Southern man; and I wish you to understand that we harbor no hostility to the race in the South. There are many reasons why we should not, no good reasons why we should. They were raised with us; they played with us as children. Under the slavery system the relations were kind. When the war came on it was supposed by many that they would rise in insurrection and soon disband our armies. They at no time ever behaved with more loyalty to us, or with more propriety. Since the end of the war, when, as we thought, you very unwisely gave them the ballot, they have exercised the rights of freemen with a moderation that probably no other race would have done. Therefore I say it is our duty in the South especially, and I think yours in the North as well, to encourage them, and, as they are now citizens, to elevate them and make them the best citizens possible.

But, as I stated a while ago, I have given you a reason why there is such a vast preponderance of illiteracy now in our section. It is not only due to the fact that we did not have the common-school systems in the Southern States prior to emancipation, but that the four millions of freedmen were added to our population as citizens there, without education. Then we must appeal to you not only now but in future to be liberal toward the South in aiding in the education of these people. I know there have been complaints that they may have been cheated in some instances at the ballot-box. Ignorance may be cheated anywhere. Doubtless, Senators, you have seen the more ignorant class cheated in your own States. If you would guard against this effectually in the future, educate them; teach them to know their rights and, knowing them, they will maintain them.

It is necessary to educate them, furthermore, for the reason that they do not now understand, as ignorance does not anywhere understand, the theory and form and spirit of our Government. Education will enable them to understand it. We must give it to them. We must teach them what is the nature of the government, what are the principles of the Constitution of the United States, and now that we all agree that it is to be perpetual in future, we must teach them to love the Union and to be ready to stand by and defend it, and I believe the senators from New England will agree with me when I say we must teach them also that the Union is a union of States, and that we must not destroy the States. When the States are destroyed there is no longer the Union of our fathers. As the Union is to be indissoluble, the States which form the Union, and without which it cannot be maintained, must forever remain indestructible, and they must continue in the exercise of all the reserved rights which they now possess under the Constitution as it stands, with the amendments adopted by the States.

Therefore, it is necessary to teach all citizens, white and colored, and to teach their children, the importance of maintaining republican institutions in the purity in which they originally came from the hands of the framers of our Constitution, and to maintain the ballot-box in its purity also. I announced in my own State to the electors who were to vote on my case the next day, that I was for a free ballot and a fair count. I want to see the day come when that will be so everywhere, not only in Louisiana, South Carolina, Florida, and Georgia, but in New York, Massachusetts, Ohio, and Indiana as well. Let it be so everywhere. Let us educate our people, white and colored, up to the point where they understand the proper use of the ballot; then let it be free to all, and let the ballots be fairly counted

when deposited. Having referred to the struggle that brought about the present state of things, I will add that whatever I may have thought of the terms you dictated to us, I have accepted them, and I have all the while advocated carrying them out in letter and in spirit in good faith, in practice as well as in theory. Whenever the whole mass of the people are educated there is no danger in doing this. Until they are educated there will be impositions practiced upon ignorance in every section of this country, and probably in every State in the Union.

The honorable senator from Vermont referred to the great good that was being done by the appropriation made in 1862 of portions of the public land to establish agricultural and mechanical colleges in the different States. I can bear testimony that in my own State that appropriation has been most beneficial. It was accepted by our State, the land scrip sold, and the money was delivered to the trustees of the State University, and they connected with our university a college of agriculture and the mechanic arts, which has been well conducted and resulted in great good; but there were certain sections of our State not well content with the centralization of it, as they termed it, in one locality, and it was asked that it be distributed more justly between the different sections of the State. The trustees of the university agreed that they would endow a branch college at Dahlonga in the building of the old United States mint that Congress donated for the purpose of a school, and they gave \$2,000 a year of the interest derived from the fund toward its support. Since then it has been carried up to \$3,500 per annum and we have established three other branches of the university—one at Milledgeville, one at Cuthbert, and one at Thomasville. Those branches are colleges of a lower grade than the university. They educate girls and boys—we have both sexes there educated—up to the point where they can enter college. For instance, a boy who graduates in one of them can enter the junior class of our State University, and we have at this time about eight hundred pupils in those four branch colleges. They are located in sections where they can be easily reached by our people generally. There is a cheap mode of board established there. Mess-halls are resorted to, and it is deemed altogether respectable for a young man to board himself as best he can and go into the schools. The amount of good they are doing is incalculable. At Dahlonga the trustees are authorized, on the proper examination of a young man or young lady in the college, to give a certificate authorizing him or her to teach in the public schools of the State, and at the last commencement there were about eighty licensed for teachers. They go out all over our country and teach three months' schools during the vacation. In this way they make some money to enable them to go forward again with their studies. And thus there is a very great amount of good done by that college, and I should very gladly see as large an addition as possible made to its endowment.

If we could have two or three other of these branches in different sections of our State we could add greatly to the present advantages. Doubtless the same may be true in the other States.

The only real regret I have about this matter is that the fund we shall be able to raise from the proceeds of the sales of the public lands and from the Patent Office fees will be too small to meet the demand; but I trust this is the entering-wedge, and that we may see our way clear in the future, if this works well, to do still more for the cause of education.

I know some objection has been raised on the constitutional question. It has been said that the States alone can take charge of this matter; that the Federal Government has nothing to do with the education of the people. Well, under the strictest rules of construction of the old State-rights school

prior to the war possibly that was so; but we do not live under the Constitution that we lived under then. The amendments made at the termination of the struggle have very greatly enlarged the powers of this government. Again, I think the constitutional objection cannot apply to this bill, for the reason that it is mainly a proposition to dispose of the proceeds of the public lands, and so far as those proceeds are concerned there never has been a time when the Government did not have the right to dispose of them. As far back as 1836 there was a law passed for the distribution of the surplus funds in the treasury, and in 1841 to distribute the net proceeds of public lands, the Congress recognizing the fact that they belonged to the States. Then in the organization of new States and Territories large amounts of the public domain have been set apart for the use of colleges and schools there, recognizing the power of Congress to use a portion of the land for this purpose.

Then, again, the act of 1862, of which I have been speaking, which appropriates a certain amount of the public lands in aid of agricultural colleges, is another use of the public domain for that purpose which has not been objected to. After all that has been done, why may we not now appropriate the future proceeds of the public lands and the Patent office to this sacred purpose?

But I believe there is another provision of the Constitution that may have some bearing here. "The United States shall guaranty to every State in this Union a republican form of government" is the language of the Constitution. If I be right in the position I took in the commencement of this argument, that this government cannot be perpetuated as a republic without the education of the whole mass of the people, then to appropriate money for the education of the masses of the people would be a better mode of guarantying a republican form of government than to undertake to make a guaranty by the use of the army and the sword.

I do not think really there is any constitutional difficulty in the way of making this disposition of the public lands for this very important purpose, and it seems to me there is no other possible disposition that can be made of this fund in the future which can result in anything like the benefit to the Government and the people of the United States that must result from the appropriation of it to the purposes of education.

A large proportion of our public domain, which is the property of the people, has been appropriated by Congress to railroad corporations and other purposes, looking to the settlement and development of the Territories. And while I am not prepared to say that this may at the time have been an improper use of a portion of the public lands, it seems to me there can be no doubt that it is better to stop such appropriations in future and apply the proceeds of their sale to the sacred purpose of educating the people. We will in this way establish new guaranties for the perpetuation of the Union, the maintenance of the rights of the States, and the future peace and prosperity of the whole country. Let us give to the whole mass of our people, in all sections of the Union, the benefit of at least a common-school education; and let us provide, as in the Prussian system, for a higher development of the brightest intellects that may be found in the public schools by such legislation and appropriations as will enable them to prosecute their studies till they have made themselves masters of the particular art or calling for which nature seems to have fitted them.

It may be objected that it costs large sums of money to educate our whole people. I admit it; but it is an investment that pays back a heavy rate of interest. Who is most likely to make money, an educated enlightened people, or an ignorant, degraded people? Contrast the financial con-

dition of New England with that of Mexico, and tell me which accumulates fastest, an educated, scientific people, or a people who do not enjoy the benefits of education or science. The surest way to make money is to invest large sums of money in the education of our people and the development of the whole intellect of the country.

Then let us lay the foundation of a system which shall be improved and built up, until the whole mass of the American people have the benefits that will soon result from it. This is the surest way to maintain and perpetuate our republican system of government, to develop the vast resources of our country, to encourage and protect the accumulation of wealth and to transmit the blessings of good government to remotest generations.

SPEECH OF HON. JOSEPH E. BROWN IN THE SENATE OF THE UNITED STATES, JANUARY 24, 1881, ON LANDS IN SEVERALTY TO INDIANS, AND THE QUESTION, IS HE A CITIZEN UNDER THE FOURTEENTH CONSTITUTIONAL AMENDMENT, DISCUSSED.

The Senate having under consideration the Bill (S. No. 1773) to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes—

Mr. Brown said:

Mr. President: If I understand the amendment offered by the senator from Massachusetts [Mr. Hoar] it is to confer all the rights of a citizen of the United States upon an Indian who has received his land on the reservation of his tribe in severalty under this Bill. I incline very strongly to think that the Indian who has settled himself upon a homestead is a citizen already, under the fourteenth constitutional amendment; but if he is not, I am prepared to vote to make him one whenever he takes his land in severalty, and to give him the rights of a citizen if he lacks anything. The history of our dealings with the Indians is a sad history. And I think we owe something to them. When the white men, few in number—

Mr. Logan. If the senator will pardon me for a moment, I should like before he goes on with his remarks to ask permission to offer an amendment to the Bill to come in after the last section, so that the amendment may be printed. I thought perhaps the discussion would not continue so long as it has, but as the Bill will probably go over until to-morrow I should like to have the amendment printed. It is in the direction of the senator's remarks, providing citizenship for the Indians. I ask that the amendment be printed.

The presiding officer (Mr. Garland) in the chair. If there is no objection, the amendment will be received and ordered to be printed.

Mr. Brown. As I was stating when interrupted by the honorable senator from Illinois, when the white men appeared, few in number, upon the eastern shores of this continent the Indians possessed it. They were powerful; they were sovereign; they were the monarchs of this country; and it was by their toleration that we settled in their dominions. There was no dictating to them by the persons who first came here to settle on the eastern shores. The white men asked, may we purchase from you, the owners, a homestead here? The Indians met them with kindness and hospitality. When justice has been done to them I believe they have usually been proverbially kind. Negotiations were opened and certain tracts of land were conveyed, not by us to them, but by them to us.

They had the power then at any time to have exterminated the settlements upon the eastern shores of this continent; and it would have taken armies to

plant colonies here that could have sustained themselves. They did not think proper to do so. By their toleration the white people poured in and increased in numbers until they became most numerous, and then commenced to dictate to the Indians; and the stronger we became and the weaker they became, the more illiberal and unjust was our policy toward them. It reached a point at a certain stage when it was adjudicated, I believe, by our supreme court, that we owned the whole territory and they were mere occupants. It is true we then treated them, I believe, as persons, but now the question is gravely considered in the senate and in the courts whether they are persons under the fourteenth constitutional amendment. The whole history of our dealing with them has, I think, been a history of wrong, mostly on our part.

A distinguished officer of the United States army when approached on this subject on one occasion said he never knew the Indians violate a treaty, and he never knew the white men to observe one. This may not be literally true, but there is too much truth in it. I will not go into a discussion of the various outrages that have been perpetrated upon them. As our people have advanced farther west and found territory they desired occupied by the Indians we have soon found occasion to get up disturbances or difficulties with them that led first to war, then to victory on our part, then to negotiations and a cession of the territory on their part.

This has been the sad history of our dealings with them. We have grown stronger and stronger until to-day we number more than fifty million persons. They have been reduced all told as the last report shows, excluding Alaska, to 255,938.

At the first settlement of the country we were completely in their power, and they could dictate any terms they pleased to us. And when justly dealt by, they were kind and indulgent to us. Now they are in our power. We have a right, at least we have the power, to dictate any terms we choose. Have we dealt as liberally with them as they did with us? We have driven them back from time to time, from reservation to reservation. We have made treaties with them that they are to hold their reserves "as long as water runs and grass grows," but we always get rid of the treaty when we are dissatisfied with it or when we covet the territory and determine to have it.

The Bill now before us, as I understand, proposes to permit them to take in severalty lands in the proportion mentioned in the Bill within the reservations assigned to them. I favor that Bill. I believe they should have the same right that the white man has to take homestead on their reservation, and we should then give them a fee-simple title to it as we give to the white citizen or settler. What inducement have they now to labor to acquire property, to build houses, to clear lands, and to make homes comfortable for their future dwelling, when they know that they may be driven from it at any time when we choose to say they must leave? But when we have allotted the lands to them and each has his land in severalty, then he is entitled to the protection of the law; he can go forward and improve his homestead. If he knows it is his, he has a stimulant to industry, and there is something to induce him to make a good citizen and to bind him to good conduct.

The man who is a robber and desires to possess himself of the property of the Indian goes upon the reserve, steals his ponies or his cattle, and brings them away. Is it unnatural that the Indian should pursue? Is it unnatural that he should attempt to protect his rights of property? He would be less than a human being if he did not seek to protect them. The Indian follows the robber and the result generally is a collision; somebody is killed; and then war. Allot his lands to him in severalty; give him the right to build houses, to clear plantations, to raise stock upon it, with the guaranty of the Government that he shall not be driven from it, and we shall in a very

short time see the progress in the far West that we have seen in the Indian Territory.

We will soon find the Indians upon their homesteads advancing in civilization; and under the benign influence of the Christian denominations, we shall see Sunday schools and churches planted among them; and instead of roving bands without fixed habitations, goaded to desperation by injustice and wrong, spreading death and destruction in their pathway, we shall find them in the comfortable homes of civilized man, not only a Christian people, but many of them cultivated and honorable citizens.

But the question is, shall the Indian be a citizen? I have said it seems to me he is a citizen already under the fourteenth constitutional amendment as soon as he severs his tribal relation and takes the homestead that the law now allows him to take. The fourteenth amendment is very broad in its provisions. It reads thus:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any *person* of life, liberty, or property, without due process of law, nor deny to any *person* within its jurisdiction the equal protection of the laws."

Is the Indian a person? He is the original sovereign of this continent, who had the title to it by a possession that may have run back a hundred generations; who met the white man when he came here kindly and fraternally, who during the wars that we have had with him has shown gallantry of the highest order and oftentimes military genius unsurpassed—is he not a person?

Was King Philip, who swayed the sceptre over six powerful tribes, and who when he felt that his rights had been outraged, by his great genius and powers of organization and persuasion, formed a league of all the tribes of the Atlantic slope, in a cause which they considered sacred, not a person? Was Logan, the great chief who never turned away from his cabin a white man who asked his protection, and who never took an undue advantage of an enemy, not a person? Was Tecumseh, whose military genius was not surpassed by any American officer he met, and of whom the poet has said:

"And long will the Indian warrior sing
The deeds of Tecumseh, the royal,"

not a person? Are the educated leaders of the five civilized tribes, some of whom possess intelligence of the highest order, not persons? Was Sequoyah, the author of the Cherokee alphabet and dictionary, who reduced their language to a system as complete as any other written language, not a person? The idea is absurd. If they are not persons what are they? You hold that the meanest and most ignorant negro who comes from the deepest jungle of the darkest part of Africa and plants himself here is a person, and you prescribe naturalization laws by which he has a right to become a citizen.

"Every human being," said Governor Horatio Seymour, "born upon our continent, or who comes here from any quarter of the world, whether savage or civilized, can go to our courts for protection, except those who belong to the tribes who once owned this country. The cannibal from the islands of the Pacific, the worst criminal from Europe, Asia, or Africa, can appeal to the law and courts for their rights of person and property; all save our native Indians, who, above all, should be protected from wrong."

The Indian on the western plains who shows genius, and gallantry, and manhood, is denied even an existence as a person.

Note the language of the Constitution :

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States."

We claim that the jurisdiction of this country extends to the Pacific ocean. Was the Indian born within that limit? No one questions it. He does not ask you for naturalization. He cares nothing about the uniform rules you may make on that subject. He claims his right as a birthright. He was born in the United States, and he is a person.

But is he subject to the jurisdiction of the United States? The amendment requires that he be born in the United States and subject to its jurisdiction. That question has been expressly decided by the supreme court of the United States in the tobacco case brought up from the Cherokee nation by Mr. Boudinot. The Cherokees claimed under their tribal relations and under an express section of a treaty between them and the United States that they had a right to sell or dispose of any of their property as they might think proper, without paying any tax to the government of the United States; and Mr. Boudinot and his partner established the tobacco factory in the Cherokee nation. The officers of the United States seized it for non-payment of internal revenue, and the question came before the supreme court of the United States for final adjudication whether the Indian Territory was subject to the jurisdiction of the United States, and whether it had a right to collect the revenue. The Supreme Court held that the jurisdiction of the United States did extend into the Indian Territory, and that Congress had the power to annul the treaty and collect the revenue. Here then is the express decision by the highest judicial tribunal in the Government, that the Indians on their own reservation are subject to the jurisdiction of the United States. They were born in the United States, they are subject to the jurisdiction of the United States, and if they be persons there is no escape from the conclusion that they are citizens of the United States whether the Government may choose for the time to extend its criminal laws over them or their reservations, or not. And being citizens of the United States, they are entitled to the protection of the laws of the United States.

Again:

"Nor shall any State deprive any *person* of life, liberty, or property, without due process of law; nor deny to any *person* within its jurisdiction the equal protection of the laws."

Why is the Indian not a person? Then, if he is a person, you have no right to deny to him the equal protection of the laws. It is absurd to deny that the Indian is a person. But it may be said that the next section of the fourteenth constitutional amendment disposes of this question. Let us see:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed."

Yes, in making up the representative population of the State you exclude the Indians not taxed; but you do more than that by this section. I read further.

"But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

If the Indian is not a citizen because we exclude him in the count for representation on the ground that he is not taxed, then you must also exclude from the count the white citizens of any State who may be denied the right of voting. To illustrate: Suppose the population of a State be 1,000,000, and 100,000 of that number are Indians not taxed. When you go to make up the representative population of that State you would count it 900,000. Why? Because you exclude the Indians not taxed. Then suppose a State excludes from the ballot-box, for any cause, 10,000 of her male citizens over twenty-one, and the whole number of male citizens over twenty-one is 100,000; then you deduct one-tenth, or 100,000 of the whole representative population of that State, because 10,000 of the voters have been excluded. I apprehend that the 100,000 white people are still citizens, although you are not allowed in making up the representative population to count more than 900,000. Why? Because you have disfranchised enough of your citizens to exclude 100,000 from the count. So in the other case with the Indians. You exclude 100,000 of them not taxed in making up the count; but where, in what other part of the constitutional amendment, is there an exclusion of the Indian from the rights of citizenship? The Constitution does not exclude the Indian from the representative count, because he is an Indian or because he is not a citizen, but because he is an Indian *not taxed*. It is argued I suppose, that because he is excluded while not taxed from the representative count, therefore he is not a citizen. Then the 10,000 white people excluded in the other case are not citizens by the same parity of reasoning. Such reasoning is not sound.

Then I hold that the Indian is a citizen of the United States when born upon the soil of the United States, and especially so when he severs his tribal relation and takes his allotment of land and settles down under the laws of the United States and pays taxes. It is true you exempt his land from taxes by this bill for a certain length of time. During that period you would have to exclude him from the representative count, but the moment you tax him, then how does it stand? He is a person; he was born in the United States, and is subject to its jurisdiction, and he pays taxes as a citizen. Why is he not a citizen, and why is he not then counted in the representative apportionment? I should like for some senator to give a reason why. But we cannot truly say that the Indians are not now taxed. We have established trading stations among them, and all Administrations have appointed political favorites to conduct this business. We do not permit any one, under heavy penalties, to go into their territory and trade with them as the competitor of the political trader appointed by the Government. They are compelled, therefore, to sell their produce to those favorites who are put there by our Government to make money off of them, and they are compelled to buy the goods they use from the same persons. The larger part of the money raised to support this Government is raised by a tariff upon imports. Almost every Indian tribe purchases from these favored traders certain amounts of imported goods, and every time he purchases a yard of cloth manufactured in a foreign country, or pound of sugar or any other article made abroad, he pays a tax to this Government. Then why is he not a citizen, entitled to the protection of the laws made by this Government? Why is not his life sacred, and why should not the assassin who takes it wantonly suffer the extreme penalty? Why is not his property entitled to the protection of the law, and why is not this protection extended to him on his application? And if he is illegally imprisoned, why is he not entitled to the benefits of the writ of *habeas corpus*, which have recently been extended to him by an able Federal judge in one of the Western States?

Let it be borne in mind, furthermore, that this fourteenth amendment de-

clares that they "are citizens of the United States and of the State wherein they reside." I know in some minds there is a difficulty about State rights just here, about Congress declaring anybody a citizen. I think we are simply making a declaration here in a statute of a right that is already secured by the Constitution, that he is a citizen whenever he has complied with these terms.

Under the amendment we may declare him a citizen, but may not be able to count him in the representative population until he begins to pay taxes upon his land. But when he does he is then a person born in the United States, and a tax-payer; and has all the rights of a citizen under the Constitution.

As I do not care to stickle about the shadow of a question of State rights here, and as I hold he is a citizen whenever he has adopted the rules and conformed to the plan laid down in this statute any way, I am willing to say in the statute in express terms that he is a citizen with all the protection and duties of any other citizen. Why give it to every person of every race and every color on the face of the earth who will come here and comply with our laws and not give it to the original inhabitants of our own country? He is "to the manor born," and you have no right to drive him into the Pacific Ocean or to slaughter him with his women and children because he will not submit to the imperious dictates of any officer of the Government. When you make a treaty with him and assign to him certain limits and say, "This is your land, Mr. Indian," he has a right to stay there and be protected, and when he conforms to the laws conformed to by other citizens and is made a tax-payer he has a right to claim citizenship, in the broadest sense, and you have no right to deny it to him.

Our mode of dealing with the Indian is in very striking contrast with that adopted by the British Government. Why are they not always engaged in war with the Indian in Canada? Why is it that they live in peace and harmony there? It is because the British Government has dealt justly and fairly with the Indians. It has not driven them from post to pillar, but has assigned them reservations, where they have made their homes and built their houses and cleared their fields and raised their stock and erected their school-houses and churches. They have the rights of British subjects, and those rights are protected. They are treated humanely and kindly, and hence they are peaceable and loyal to that Government. Let it be borne in mind that the British Government has not driven them to her remotest boundary to be located. They have permitted them to take reservations on the spots where they were born, where they have always lived, and where their fathers are buried. I recollect, a few years ago, on a visit to Quebec, that I admired the valley of the Saint Charles as one of the loveliest I ever saw, and one that the white man might well covet. But in going ten miles from the city, I found in that beautiful valley on the river Lorette, which took its name from the tribe, the remnant of the tribe of the Lorettes living on the territory of their birth, and protected as British subjects, and they were as loyal as any other subjects that the British Government had in Canada.

I visited the residence of the chief in the midst of that magnificent valley, where I was received kindly, and among other curiosities I was shown what were called the "crown jewels," prominent among them a bronze medal presented to the chief by Prince Albert, and a silver medal presented by the Prince of Wales. These were regarded as treasures of the nation and the tribe blessed the names of the donors. Their hearts swell with pride when they say, "I am a British subject." How marked is the contrast between that state of things and what we witness in our own country! There the Indian has been justly and kindly treated and is a willing subject to the Gov-

ernment and a warm friend to the white man. Here he has been too often unjustly and harshly treated, and he is the natural enemy of his oppressors. There they are civilized, and in large numbers converted to Christianity.

Here on the plains the wild Indian is often butchered because he has defended his rights against some robber who plundered him of his property.

It may be said we have the power to carry out this line of policy. That is true. But have we the right to do it? We are strong; we are powerful. But there is a Being stronger and much more powerful than we are. And we should not forget that nations as well as individuals have to answer for wrongs and outrages committed by them. In what way we may be called to answer I do not pretend to say. Whether it will be by pestilence or war, or in what other manner we may be scourged for our cruelty to the aborigines of this country, I know not. But I believe the crimes committed by us against the Poncas, and in the massacre of the Cheyennes and other like outrages, will meet their reward in national punishment. Our course is condemned by the civilization of the age. It is condemned by humanity, and it is condemned by Christian men and women everywhere who understand the facts.

I do not put the blame at the door of any particular person or official. I do not pretend to say where it rests. I do not call in question the motives of any one, but I do say the acts were criminal; they cannot be justified. What were the facts? The Cheyennes had been carried to the Indian Territory. They could not stand the climate and were dying fast with disease. Some three hundred escaped, and in midwinter, under the most adverse circumstances, made their way back toward their own country, and had gone several hundred miles before the military overtook them. When summoned to surrender, they refused to do so without a guaranty that they should not be sent back to the Indian Territory, saying that they would rather fight till they died than to return. The commanding officer gave them to understand, and they did understand, that they should not be carried back to the Territory if they would surrender. After the surrender they were carried to Fort Robinson, and an order was then sent to carry them to the Indian Territory. They refused to go, and about one hundred and fifty of them, being all that survived, were imprisoned, thinly clad, in midwinter, when the thermometer was below zero, for five days at a time without food or fire, and three days of the time without water, to compel them to consent to return to the Indian Territory, where their ranks had been fast decimated by diseases incident to the climate, and when they preferred death to a return. If we were determined to carry out our dictatorial policy and compel them to return to the reservation, why did we not hold them at the fort and treat them humanely till we had provided the means to transport them, and then send them under military escort?

But I turn from this sickening theme, and will not dwell longer upon it by rehearsing scenes that attended the butchery of men, women, and children who attempted, by violence, to escape from this horrible imprisonment.

If we treat the Indians as they do in Canada we may avoid wars. We need not have the army always chasing them if we will do justice to them and not be always robbing them. In my opinion it is much better to expend a few millions in locating them and giving them agricultural implements, and in educating and civilizing them and their children, than it is to expend a hundred millions in pursuing them over the plains and slaughtering them like wolves.

But it is said by those disposed to give no quarters to the Indians that they are savage and cruel in their mode of warfare, often slaughtering indiscrim-

inately, men, women, and children. This is unfortunately true; but what better could we expect from people who have none of the advantages of the proper training incident to civilization, and who feel that they are greatly oppressed? The point I make, however, is that those wars in which they practice cruelty have usually been provoked by bad white men or by the agents of governments at war with the United States. The Indian is not naturally disposed to go to war with the white man. Our early history shows that very clearly. It was only when their rights had been trampled upon by the white man that they took up arms. The rattlesnake is the most peaceable reptile on the plains. When you come in contact with him, if you will not trample upon him or practice aggression that causes him to believe that you intend to do it, he will crawl away and leave you; but when you place your foot upon him he declares war, and fights with savage desperation. So with these children of the forest, once so strong and now so weak and so near extinction.

But it may be said that they are savages, and cannot be civilized and made good citizens. Our experience has taught us very differently. On that point I want to call attention to two or three passages taken from the reports of the Indian agents for the civilized tribes. The agent says, speaking of these civilized tribes:

"These people have recovered slowly from the effects of the war, but they are now in a position, if not disturbed, to become a strong and wealthy people. Their only fear is that the United States will forget her obligations, and in some way deprive them of their lands. They do not seem to care for the loss in money value so much as they fear the trouble and the utter annihilation of a great portion of their people, if the whites are permitted to homestead in all portions of their country, as is contemplated by so many of the measures before Congress."

Again he says:

"Crime is no more frequent than in the adjoining States, and convictions by local authority are about as sure. The band of desperadoes, whites and Indians, who made their headquarters in the western part of this agency, and beyond, and who were the terror of the whole country last year, have all been killed or placed in the penitentiary. The feeling among these nations is stronger than ever for the enforcement of the law.

"The Methodist, Presbyterian, and Baptist denominations have missionaries here, and are doing good work. Some of the missionaries have been here for many years, and their influence for good is great. Their means for support is small, and they work hard, and only those remain in the field who possess a true missionary spirit. The church buildings are not expensive or ornamental, but are built for use. The Sabbath is well respected and observed. Many of the Indians are ordained ministers. Some of them have been educated in the States, and returned to labor among their own people.

"The schools of these nations are conducted upon the school system of the States. The English language is taught exclusively. Many of the boys and girls are being sent to the States to be educated at the expense of the nation. Many of the wealthy send their children East to be educated at their own expense. The result is a surprise to the stranger who meets so many well-educated people among the nations. There are also private schools with good attendance. I am of the opinion that the solution of the Indian question, if it is ever solved before the last one is driven from the face of the earth, will be in the education of the Indian children."

It appears, therefore, from the reports from the five civilized tribes that they have made great progress in education and they are probably doing as much or more with the funds at their disposal now for the education of their

children than we are doing. Among them are intelligent divines, intelligent lawyers, intelligent judges; in a word they are a civilized people, with dwellings and farms and orchards and gardens and stock, and are fast rivaling us in the arts of civilization. Why may not other tribes reach the same elevation with the same advantages? There is no reason why it may not be so. Indeed it is almost a certainty that it will be so.

In the same report of the Commissioner of Indian Affairs I find statements in reference to the wild tribes that have been located there. Even the Modocs, who were carried down under circumstances so unfavorable, are making, as the agent states, very decided progress toward becoming civilized. It may be said, then, why not carry out the policy that has been carried off heretofore, of taking them from their homes West, and, after killing off a large proportion, carry the little remnant there, and get them all together. I say it is cruelty; it is outrage. Put them upon reservations, upon their native heath, let them take their land in severalty on their reservations, encourage them to go to work, and when they have gone to work protect them in their labor and in the property they acquire by their labor. In a word, extend the protection of the law over them, and subject them to its penalties when they violate it. Treat them as persons, as human beings, not as wild animals.

Mr. Teller. The senator says the Indians should have their lands in severalty. I should like to inquire of the honorable senator if the progress in civilization made by the five civilized tribes has not been with land in common?

Mr. Brown. Yes; I understand they hold the fee-simple in common.

Mr. Teller. Why not pursue the same course then with the other tribes?

Mr. Brown. I have no doubt in a very short time they will abandon the practice of holding the fee-simple in common. With their order of intelligence and enlightenment they will soon have the same idea of individual rights of property and of individual protection that we have. It is true, as I understand our treaties, (and I am for strict good faith in the observance of treaties), we have no right to compel them to take their lands in severalty; but I have no doubt in a few years they will divide them in severalty among themselves. As we started out wrong, I think in the future in dealing with the different tribes we should start right, and give the land to them in severalty at the commencement.

Mr. President, I want this matter put where there can be no doubt about it, so that when the Indians desire to conform to the laws they shall have the right to do it under the protection of the law.

In the treaty made in 1854 with the Omahas there was provision made that their lands might be allotted in severalty whenever the President thinks proper to do so. I understand that they have sent petition after petition to the President to permit the division, and let them have their lands in severalty, but that a deaf ear has always been turned to them. The time has not yet come when the President has in his discretion concluded that it was best to permit them to have those treaty regulations carried out. I would make the provision imperative, that when they comply with certain provisions laid down by law they shall have a right to the patent. Take the Omahas, for instance. As they have not any land in severalty, what inducement is there for the industrious, frugal, attentive Indian to labor for his advancement and the advancement of his family? If he undertakes to build a house and clear lands and raise stock he knows not what time he may be driven away from it. He knows not whether under a new apportionment that land will fall to him or to another, or whether it will be taken by the white man. Our own race would neither build houses, clear lands, nor make other im-

provements under any such uncertainty as to their right to enjoy the fruits of their labor in future.

If the Omaha says, "The treaty provides that I may have my land in severalty," the reply is, "You have never got the exercise of the discretion of the President to permit you to do it." What encouragement is there then?

I understand there are bad Indians in every tribe and there are good Indians; there are lazy Indians and there are industrious Indians; and the way to encourage industry is to let each man who labors with his hands feel that he labors on his own soil and is protected by the laws of the country that are thrown over him, and, like a shield, guaranty him against robbery and wrong. Then you stimulate his industry; he has something to work for; but where he is driven from post to pillar at the will of the government, or an official of the government or of the army, what inducement do you hold out to him to act industriously or to make him a comfortable home or to make his family comfortable and happy? None whatever. We hold out the reverse. The ancestors of the present Indians once held the whole continent in fee-simple. We have taken it from them. Is it asking too much of us, when we have a vast unoccupied territory that the white man is not yet able to cultivate, that the descendants of the original proprietors of the whole should have the privilege of locating homesteads on this vast domain where they can labor for a livelihood and be protected in the fruits of their labor?

I understand it is the wish of the chiefs of many of the tribes to continue the tribal relations. They are like all other human beings, I suppose; they love power, and they want to continue things as they are so that they may have control of their people. Therefore they carry them from point to point, and frequently we see that they come here and sell out; the country is disposed of by four or five men agreeing that they will move off a hundred or a thousand miles from the place of their nativity, and all the tribe must leave their homes because a certain amount of money has been spent on four or five chiefs here. I say to encourage the common Indians to take their homesteads and settle down upon them and go to work and abandon the tribal relations and become peaceable citizens of the United States, is in my judgment the best solution of the Indian question. As long as they roam or are driven from one point to another we cannot expect they will settle down and become good citizens. Whenever you hold out the inducement and say to the Indian, "Take your homestead here, build your house, clear your plantation, raise your stock, send your children to school, and he who comes here to steal your pony shall atone for it in the penitentiary; he who takes your life shall go to the gallows, and you, too, shall conform to the laws or suffer the penalties," you will find them or at least a large proportion of them ready to do it. If there be those among them who will not do it, subject them to the laws until the penal statutes properly executed have brought them to subjection. That is the way to civilize them, in my opinion. Do justice to them. I do not believe there is any other plan that will ever solve this Indian question short of their extermination from the continent.

I knew a few of them in my own State who staid when the Cherokee tribe left there, mostly half-breeds, some quadroons. They have taken reservations there, and are as good citizens as any we have in the State. They are intelligent, they are law-abiding, they are orderly; part of them are good Christian men and women, and they are exemplary citizens. Why may it not be so elsewhere if we give them the same opportunities?

I trust, Mr. President, that we shall pass this bill in a shape that will give every Indian a home on his reservation, and guaranty it to him and his children for all time to come, and that the power of alienation will be re-

stricted until he has learned the rights and the duties of an American citizen. After that let him and his posterity take care of it or alienate it as may any one else. Fix a reasonable time; exempt their homestead from taxation. After that time there is no further exclusion in the fourteenth constitutional amendment in the way of counting them in the representative population of the States where they may reside, and no reason that I can see why they may not be full-fledged citizens and voters.

SPEECH OF HON. JOSEPH E. BROWN, DELIVERED IN THE SENATE OF THE UNITED STATES, FEBRUARY 17, 1881, ON THE FUNDING BILL.

Mr. Brown said:

Mr. President: So much has been said upon this question that the Senate is doubtless fatigued with the discussion and they could not patiently hear further speeches of any great length. It is not my purpose, therefore, to enter into a general discussion of the questions involved in the issue now before us. I am unwilling, however, to cast my vote without stating a few of the reasons which control my judgment in the premises.

As has already been said by other senators, we have paid off a large part of the public debt incurred by the war within the last ten years; and while the taxes of our people have been heavy they have not been such as to prevent us from moving forward to a high tide of prosperity. The country as a whole has probably at no time been more prosperous than it now is. Within the last twenty years the area of production, or the increase in the acreage of cultivation, has been enormous. Our population has increased at a rapid rate, and it has already reached over fifty millions. We have a vast territory of unsurpassed fertility. The American people are a hardy, laborious people, full of energy and enterprise, ambitious for success, and determined to accumulate wealth. During the last few years our principal crops have been about doubled in quantity, and our facilities for transportation have been so largely increased that all our productions of every character, to say nothing of our manufactured articles, find a ready market either at home or in foreign ports. Not many years ago corn was a very common fuel in parts of the West during the winter season where wood was scarce, and wheat and pork and other productions of the country found scarcely any market, leaving the people on the fertile plains of the West, without market, with but little to stimulate their energy or enterprise, content to make enough produce to live upon, and to remain at home and enjoy it. Now we have some ninety thousand miles of railroad in operation, penetrating every section of the country that has been settled by our people, and pressing forward into the uncultivated wilderness, leading and inducing population to follow. This state of things, together with the wars and oppressions of some of the European governments, has brought to our shores a largely increased number of immigrants, each of whom finds a home in a rich country, where by labor he can soon make himself and his family comfortable.

A few years ago our exchanges were conducted almost entirely upon the cotton and tobacco crops of the South. Now the grain crop and the meat crop of the West enter very largely into the account. Why? Because the markets of the world are now open to these productions, which can be sent over long lines of railroad at low rates to the coast and then rapidly transported across the ocean upon steamships. The result has been that the last few years have shown an enormous balance of trade in our favor, which has poured a stream of gold into the United States from other countries to pay

the balance due to us resulting from the usual interchange of commodities. This stream of gold and the large amounts that are made at home and taken from our mines is seeking investment. Large sums have fallen into the hands of capitalists of great wealth, many of whom do not desire to risk their fortunes upon speculation or upon the chances of an active business, and they naturally seek, even at a low rate of interest, first-class investments that are perfectly safe and free from taxation.

Not only is this true of the capitalists of large means, who invest heavily in the securities of the United States, but it is also true of a vast number of our best citizens and laboring people, who are making something to invest and who desire to place it where it will be secure. And a bond on the United States, perfectly secure, if it is not taxable, which pays 3 per cent. interest, is a better investment for even a small capitalist than he finds in most of the channels into which he can put his capital. I think I may venture to say that a large proportion of the farmers of the United States, after they have paid all the expenses attending the production of their crops, and all the taxes assessed by the Government of the United States, the governments of the States, and of the counties where they reside, do not make clear more than 3 per cent. upon the capital invested. The same is true of a large proportion of the holders of real estate in our villages, towns, and cities. Real estate, when in the hands of men who manage well, where it is well located and properly improved, pays a better per cent.

But in every city, town, or village in the Union it would be found that much of the real estate is unimproved, and the owners are paying tax upon it without income. And of the improved real estate there is a large proportion that is not in the best location or under the best management, that does not pay 3 per cent. after all expenses of repairs, insurance, and State, county, and municipal taxation have been paid. Nor do I believe that the whole capital invested in railroads or in mining in this country has paid 3 per cent. net to the owners. Some railroads and some mines have paid largely, but I speak of the average, of the whole sum invested. And our people in this condition are beginning to calculate and properly to estimate their true situation. Hence it is that whenever the bonds of the United States have been offered, as on a late occasion, to the populace, they have taken them readily at the ruling prices even as low as 4 per cent. when our bonds brought no such premium as they now bring. And I have no hesitancy in saying that if this loan is offered to the people of the United States, and is placed within their reach in the different cities and larger towns all over the Union for as much as thirty days after having been advertised, that the country will be astonished at the amount that will be taken by citizens of small means, who desire to lay by something that they can calculate upon as positively certain, and that is absolutely free from the demands of the tax gatherer.

Senators doubt whether we can place bonds redeemable after five years at the option of the Government, but which the Government is not under obligation to redeem until the end of twenty years, usually called five-twenties, upon the market successfully at 3 per cent. I do not entertain any doubt on this subject. Fifteen years ago if the United States wanted to borrow money they had to pay 6 per cent. Then came a loan of 5 per cent., that was readily taken; and a loan at 4½, and then a 4 per cent. bond, and now the 4 per cent. bonds are selling in the market at 113 to 114. This shows the increased confidence of our people in our public securities, and their increased ability to purchase them. And the immense increase in the productions and the manufactures of the country, and the vast increase in the balance of trade in our favor, have placed in the hands of our people

the means to gratify their disposition to invest in the bonds of their Government at a rate which, while it seems low, pays them a better income with absolute certainty than they can find elsewhere.

Reference has been made to the English consols, which at 3 per cent. have been most of the time a little under par. Yet it is admitted that within the last few years they have reached par. It is said, however, that this is on account of the long term they have to run, or, rather, on account of the fact that they run perpetually; and the owner is simply entitled to his 3 per cent. interest on the investment. That, with a certain class of wealthy men who desire to invest, is in their favor, and causes them to bear a better price. But another large class who would rather see the end of the loan occasionally, and know a particular day in the future, when they can demand, not what may be the market price of the consol, but the par value of it, would prefer that it should have some fixed period to run.

But there is another reason why United States bonds are naturally worth more in the market than British consols. The incomes from consols are taxable; our bonds are absolutely free from taxation. Again, this Government has a territory immensely larger and more productive than the British Government possesses. I do not speak now of the British colonies, many of which, when you deduct the expense of their wars, are not very remunerative to their mother country; but I speak of the domain that properly belongs to the British Government, and constitutes its home territory. There is not, therefore, room with them for the great expansion that we have in this country. There is nothing like so large a population in the British Isles as we have here. And while, on account of the fact that the country is much older, there has been a larger accumulation of wealth in proportion to numbers, there is no reasonable prospect that the wealth of that country will remain, as now, in excess of the wealth of this country in proportion to numbers.

But there is still another significant fact. The British Government, with all its strength and its naval power, is all the time engaged in war with somebody, which compels it to maintain large armies and navies. Those wars are expensive, and it cannot be denied that in the British Islands there is a growing discontent with the government.

At this very time the Irish question is one of great difficulty, and no one can say that the inhabitants of the British Islands may not be cutting each other's throats within the next six months. The tenants and peasantry everywhere in the islands are becoming restless at the present land laws and the present high rents they have to pay. This restlessness is also permeating the laboring masses in the iron and coal mines and the manufacturing districts; and stable and powerful as the British Government has been for a long while its prospects for future peace, prosperity, and stability are not, probably, as great as those of the United States. Its old land system and its aristocracy are in danger. We have passed through our internal struggle. It is not at all probable that we shall have another such struggle within a century or probably centuries to come. All patriots unite in the hope that we may never have another. Our country, then, with a well established government, and with resources unequalled by any other country, offers to the world assurances of peace, prosperity, stability, and ability to pay, that neither the British Government nor any other government offers.

We feel that we have an exemption from future foreign wars possessed by few other governments. Prior to the late war between the States, this Government was considered by the leading governments of Europe as a second class power in a military point of view. But our own struggle developed on each side immense strength, gallantry, and skill. The Southern Confederacy,

notwithstanding the great disadvantages under which it labored, brought into the field its half a million of gallant men. The Northern States, after a long struggle of four years, brought into the field an army of sufficient power to crush the Confederate armies and dictate terms of peace. We have now laid down our past differences. The two armies and the two sections are now united, and in case of a foreign war the troops who fought under opposing banners in the late struggle would rally together, as a united force, grand and invincible, under the old flag of the Union. Our Government, with all its sections and all the States again cordially united, can put 5,000,000 men into the field if the exigencies should require it. And while we lack a navy, and on that account might be exposed to temporary inconvenience in case of a foreign war with a naval power, still the final result could not be doubtful. It is not the interest of any foreign power to attack us with our present united strength, nor is it our disposition unjustly to attack any other power. Therefore we have a freedom from war and the expenses of large armies and navies for a long period to come, which it is not likely Great Britain or any other of the great powers will enjoy. We naturally have a right therefore to expect, these points being all understood, that capitalists and persons generally who seek investment would pay a little higher price for United States bonds than they would for the securities of any other government.

In view of our vast territory, our great population, our immense resources, our unbounded facilities for transportation, our rapidly increasing crops, our growing manufactures, our limitless mineral wealth, the growth of our educational, moral and religious institutions, our freedom from prospective wars, the heavy balance of trade in our favor, and for other reasons that I might assign, but which I will not weary the Senate by giving at present, I shall vote for a 3 per cent. bond, redeemable at any time after five years and payable at the end of twenty. And I do not entertain the slightest doubt that the bonds can be negotiated in the market and disposed of at par without any difficulty.

One word about another point connected with the bill before I take my seat. On pages three and four I find the following language: "And the expense of preparing, issuing, advertising, and disposing of the bonds and Treasury notes authorized to be issued shall not exceed *one-half* of 1 per cent."

What is the meaning of this, and what is the amount here given? It means that this one-half of 1 per cent. upon the whole amount is to be given or used for the preparation and negotiation of the bonds.

In other words it means that we are to pay for the printing, executing, advertising and disposing of the bonds one-half of 1 per cent. The House of Representatives fixed it at one-fourth of 1 per cent.; but the Finance Committee of the Senate has thought proper to change it to one-half of 1 per cent., and we were told by the honorable chairman of the committee, on day before yesterday, in substance, that he would not desire to take the responsibility of possibly defeating the loan by refusing to pay as much as one-half of 1 per cent. for negotiating it; and he called upon senators to know whether they would desire to incur such responsibility. For one, I have no hesitation in responding that I will with pleasure take the responsibility of voting to pay a smaller sum for that service. What is the sum we propose to pay? The whole issue of bonds and Treasury notes which are interest-bearing, which it is proposed to put upon the market, amounts to \$700,000,000. One-half of 1 per cent. for preparing and negotiating the bonds is to be paid on this whole amount. What is it? The snug little sum of \$3,500,000. Now, I will be pardoned for expressing the belief that it will not cost half a million to pay for engraving

ing, printing, issuing, and advertising these securities. Then what do we pay the other three millions for? For disposing of the bonds?

In other words, we give that amount as a bonus; or, in steamship phrase, which has been so often used here within the last few days, we give it as a subsidy to a certain syndicate of bankers for the trouble of negotiating this loan for us.

Now, if I were not a senator, I should like very much to take this contract, and guaranty the negotiation of the whole loan at par. And rather than miss the contract I might be willing to pay out of this bonus or subsidy, if it becomes necessary, to the national Democratic executive committee or to the national Republican executive committee, whichever may be in power and have the right to expect it, the sum of a million of dollars to aid in conducting the campaign of 1884, if party exigencies should require it. And I should feel then that I had made the handsome sum of about two millions for my trouble. And if I could not succeed with the present syndicate, with \$700,000,000 of United States securities under my control, I could readily form one with which I would succeed. And if my syndicate, after the populace had been served, should have the good fortune to take a large proportion of the bonds, I should not entertain any doubt that within the next twelve months we would make more than another one-half of one per cent. in premiums upon the bonds so taken.

But we are warned by senators that if we should offer a 3 per cent. bond and the negotiations should fail, and we were unable to dispose of it at par, we should lose within the next year \$12,000,000 in interest, being the difference between the rate we are now paying on the bonds and the rate of $3\frac{1}{2}$ per cent. And this is held over us, probably not as a rod, but as a strong reason why we should issue a $3\frac{1}{2}$ per cent. bond instead of a 3 per cent. But there is another side to this picture. Suppose we should issue a $3\frac{1}{2}$ per cent. bond, when we could readily sell a 3 per cent. bond, what would this cost us? It would be an addition of three and a half millions per annum to the interest we would pay on the new loan. If the bond is a 5-20 we would be obliged to pay interest on it at this rate for five years. That would amount to \$17,500,000. And if we could not at the end of the five years exercise the option given to the Government, and redeem the bond for another five years, it would add \$17,500,000 more to the burdens of the people. In other words, in the event we should issue a $3\frac{1}{2}$ per cent. bond, when we could negotiate a 3 per cent. bond, we would pay out of the taxes raised from the people \$35,000,000 more interest in ten years than we would pay upon the 3 per cent. loan. And there would be no way of getting rid of \$17,500,000 of this amount, and we would be obliged to pay it. Therefore the chances for loss to the Treasury are greater if we issue a $3\frac{1}{2}$ per cent. bond than if we issue a 3 per cent. bond. In the one case we might possibly lose \$12,000,000 of interest; in the other case we would lose \$17,500,000 of interest; and if the bonds should run ten years we would lose \$35,000,000 in interest. Taking into the account the chances in favor of the negotiation of a 3 per cent. loan, the prospects for loss are much greater in the event we determine to issue a $3\frac{1}{2}$ per cent. bond.

But it is intimated that the credit of the Government would suffer in that case. Why so? It would simply show that we had not been able to do that which other nations have not been able to do—float at par a 3 per cent. bond. But how would this injure our credit? Would it make our four per cents. now in the market less valuable? The only effect would be that we must continue to pay the present rate of interest on the bonds until another loan is offered to the country at a rate that could be negotiated.

But I am so thoroughly satisfied that there will be no difficulty about the

negotiation of a 3 per cent. loan that I shall, as already stated, not hesitate to cast my vote in favor of 3 per cent. We have no right to tax the labor of this country or the property of this country to pay the capitalists or anybody else a higher rate of interest than the lowest rate at which the bonds of the Government can be readily negotiated.

And if we retain section 5 of the bill as it came from the House of Representatives, and compel the national banks in future to deposit the 3 per cent. bonds, and no others, as security for their issues, we will make assurance doubly sure.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 28, 1881, IN REPLY TO SENATOR MAHONE, OF VIRGINIA, ON THAT PECULIAR COINCIDENCE.

The Senate having under consideration the resolution submitted by the Senator from Massachusetts [Mr. Dawes] for the election of officers of the Senate.

Mr. Brown said:

Mr. President: I had hoped I should see the speech of the senator from Virginia [Mr. Mahone] which was delivered yesterday, in the Record this morning. I predicated that hope on the fact that the senator seemed to read his speech, not from written manuscript as is often done, but from printed slips. The natural supposition was, therefore, that it had been revised and that there was no good reason why it should not go into the Record this morning after such careful preparation. I was, however, disappointed in that reasonable expectation, and I am left to make some remarks in reply to-day without having that rather remarkable production before me.

One of the points the senator dwelt upon with most satisfaction was what he considered a dissection of my own record. Possibly it is not very interesting to the country, although the senator thought proper to bring it before the country and grossly to misrepresent it. He took the position that I had been inconsistent. I must admit that most men who have been long in public life have sometimes been placed in positions that appear to be inconsistent with each other, and I must admit that the position that I now occupy on certain questions is not the position I occupied at the commencement of the war, now known as the war of the rebellion. I went into that contest to maintain slavery and State sovereignty. These were the two cardinal points upon which we planted ourselves. I sincerely believed we were right in both. The war, however, has settled both questions. Slavery is abolished and I am now content that it is abolished. Then I was a pro-slavery man. To that extent, therefore, I may be said to be inconsistent, or to have changed position, growing out of the results of the war. I honestly and earnestly advocated then and believed in State sovereignty. The results of the war and the amendments to the Constitution have so changed our situation that I cannot and do not contend to-day that the States are sovereign in the sense in which I then claimed that they were sovereign. Therefore, on these questions I may be properly said to be, as most Southern men are, inconsistent. I do not contend now for what I claimed then.

The senator said, as he is a readjuster, that I had a very happy faculty of readjusting myself to fit the circumstances. I do not know with how much justice I might claim that faculty; but there is one point of readjustment I can never attain. I would be wholly unable to readjust myself so as to occupy the position that the senator from Virginia occupies to-day before this Senate and this country. I may readjust myself to many circumstances, but I could not afford to be a party to that kind of readjustment. If he enjoys

either the distinction or the notoriety he has lately attained, I confess I rather pity than envy him.

The senator would have you believe that I was a very ardent rebel. I plead guilty to that charge in the fullest sense of the term. When I went into that contest I went in deliberately, with my mind made up that I was right. I was a secessionist, and when I saw that my State had determined to secede I did not choose to have any other power occupy the forts or arsenals of that State, as the Government of the United States had occupied Fort Sumter at Charleston. Hence, I took the responsibility to seize those forts and hold them; and situated as I then was, I considered it my duty.

He was a little wrong on one point, however, when he stated, if I understood him correctly, that I seized the arsenal at Augusta before the State seceded. That was a day or two afterward; but I will give him the full benefit. If it had been necessary to have done it to protect the arms that were there and preserve them for our cause, I would have seized them in advance; I have no hesitation about that. I went into the contest like the Bostonians did in the Revolution. They threw the tea overboard and fought the battle of Lexington before hostilities had been declared; they saw the contest had to come; they prepared for it. They took time by the forelock and did all they could to strengthen their position.

That is what I did at the commencement of the war we now term the rebellion. I have no regrets about it. Situated as I was then, with the surroundings at that time, and engaged in the cause I was at the time, I did what I should do again under like circumstances. In other words, to speak more correctly, I considered that the facts and circumstances by which I was surrounded not only justified my action then, but made it my duty to do what I did.

But the honorable senator says that I had ambition for the presidency of the Confederate States. There, as in some other cases, his statement is very wide of the facts. There happen to be living witnesses to-day who know that I positively refused to permit my name to be used for any Confederate position whatever. I had attained—he says I am ambitious—a point of ambition that he did not attain in Virginia, and failing to attain it he conceived the idea of abandoning the Democracy. I was governor of my State at the time; I sought no higher position; my ambition was gratified. The people of my State honored me with that position not only once, but for four successive terms by four different elections. That was honor enough to satisfy the ambition of a reasonable man. It fully satisfied mine at the time. Therefore the senator is much mistaken when he says I was ambitious for any Confederate office. I had no disappointed ambition on that question, as he seems to have in the matter of the governorship of his own State.

The senator made the further charge that I was the first to confiscate private property at Savannah. This charge is without foundation. A citizen of Georgia had purchased two hundred stands of muskets in New York after Georgia had seceded, but before there was any war or any blockade. The chief of police of the city of New York, who was understood to act under the authority of the Governor of that State, seized the guns and would not permit them to be sent to Georgia. I presented that fact to the Governor of New York and demanded their immediate release; and as they were not promptly released, I ordered all the ships belonging to citizens of New York in the harbor of Savannah to be seized and held until the guns were delivered, and no longer. I notified the authorities of New York that Mr. Gazaway B. Lamar, of that city, was my agent to receive the guns. After some days' delay I was informed by Mr. Lamar that they had agreed to release the guns. I then released the ships; but before they had all left the harbor I was noti-

fied that the authorities of New York again refused to permit the guns to be sent forward, and I then ordered the ships to be detained till they were sent. Not many days afterward the guns were shipped to Savannah, and I then released the ships of the citizens of New York. This is doubtless the confiscation to which the senator refers. A mere statement of the facts is a sufficient refutation of the charge. I required the guns, which were the property of a citizen of Georgia, to be sent forward, and I held the ships until they were sent, and then discharged them. The guns were seized in violation of right and of the comity usual between States. The ships were seized to be held until the guns were delivered. I had as much right to hold them as the authorities of New York had to hold the guns, and I did it until I had accomplished my object. I had no other remedy but the one to which I resorted, and I made that effective.

But the senator says that when the cause of the Confederacy began to wane I withdrew with my militia from the starry cross. This is what he is reported in the New York *Herald* this morning to have said. I have to quote his language from recollection and from the best sources in my power, as he has not thought proper to give it to us in the Record. There again he is misinformed about the facts, or he wilfully misrepresents the facts. I never withdrew with my militia from the Confederate cause. True, I differed with the Confederate authorities on the conscript question. I had gone, as I have already stated, into the contest to maintain slavery and State sovereignty. When the Confederate Congress passed the conscript act I felt, whether right or wrong, that we had not much State sovereignty left when we gave the President of the Confederate States the power to organize regiments of conscripts, and to appoint every officer down to a second lieutenant.

There was a long correspondence between me and the President of the Confederate States on that question; but while I refused to have anything to do with the execution of the conscript act in Georgia, I notified him that under the other provisions of that act I would not throw the slightest obstacle in the way of its execution by him. And let me here state that there was never a single instance during the struggle when the President of the Confederate States called on me for troops of a character furnished by any other Confederate State, or such as were subject to Confederate service, that I did not furnish or tender not only the quota called for, but a larger quota than he called for—not a single instance.

Now, as to my withdrawing the militia. When General Sherman's army invaded Georgia I called out a class of our people who were not subject to conscription, and had not been called out in large numbers by the other Confederate States; I called the old men up to fifty-five years of age and the boys down to sixteen, and I required the clerks of the courts, the sheriffs, the ordinaries, the tax collectors and receivers, and all the other officers of every character to go with them, to unite in regiments, electing their own officers; and I raised of that class not subject to conscription about ten thousand men that I placed under that grand old hero, General Johnston, as soon as possible after Sherman had invaded the State. They remained under his control until he was superseded by General Hood; and then I placed them under General Hood's control. They stayed in the trenches around Atlanta until the city was surrendered, and both Johnston and Hood placed on record high commendation of their gallantry and the distinguished service they rendered in the defence of that city and of the State.

When General Hood made his march to the west he did not desire to carry this class of militia with him; the boys and the old men could not have stood his hard march, and they had only been organized of a class not subject to conscription, for the defence of their own State. When he left Georgia for

Tennessee General Sherman turned upon his heel and marched for the sea-coast. I kept that militia force under arms and annoyed him all I could on his passage through the State. General Gustavus W. Smith, a distinguished officer of the old army, was the major-general in command of them, and when I sent them around by rail to Savannah, when Sherman was on his march through the State, General Smith asked me if it became necessary to throw them into any other State whether I consented, and I told him without hesitation to do so; and history records the fact that he carried them across into South Carolina, and they fought there the battle of Honey Hill and won a victory over a regular Federal force. They were then returned to Georgia, and I surrendered those gallant troops after Lee and Johnston had surrendered.

That is the way and that was the time that my militia were withdrawn from the starry cross. I was in the field with them, among the last who stood by the cause. The battle of Griswoldville was fought by them against part of Sherman's troops as they went through Georgia, one of the bloodiest of the war for the numbers engaged. This was the way of their withdrawal from the cause of the starry bars. They came at my call to defend their State, and they remained under arms in its defence until the armies of the Confederacy had been surrendered. In the mean time they had fought a battle and gained a glorious victory upon the soil of our beloved sister State of South Carolina.

It may not be known to the senator, but it is very well known to the General of the armies of the United States to-day, that while he was invading Georgia and pressing us to the very last ditch he sent a messenger to invite me to a conference with him, with a view to an adjustment, and I declined to hold it, saying I had no power to speak for the Confederacy, and that Georgia, having gone into the contest with her Confederate sisters, would be the last to retire and leave them in the lurch. No; I was not untrue to the Confederate cause; I spurn the imputation; nor were the troops of Georgia untrue. The militia of Georgia acted gallantly in its defence till the last moment. Therefore that charge made by the honorable senator falls to the ground as grossly unjust and absolutely untrue.

But the senator says at the end of the war I acted with the Republican party for a time. I stated that the other day. There was nothing new in it. I also stated the other day the reasons why I did it. It has never been questioned that I did it. He says, however, that when the Democracy went after me he retired. There is a little mistake just there in dates. If I understand the senator from Virginia correctly, he never retired from the Democracy, nor was he ever lacking in his zeal for the Democracy, until he was beaten for governor, in the Democratic convention of 1877. I returned to the Democracy, or they returned to me, whichever you choose to call it, in 1872, when they planted themselves upon the reconstruction platform and nominated Greeley, and I have acted steadily with them from that day until this, in no instance varying from my loyalty to the party or failing to stand by its organization and its principles. I do not think the senator quit it until his defeat for governor. He felt possibly a little of that ambition that he erroneously attributes to me when he says that I wanted to be President of the Confederate States. He did want, if we may judge him by his acts, to be Governor of Virginia, and failed. Up to that period who had ever heard that he was a readjuster? Since that period, if he is correctly reported—I do not know whether he is or not, but I take the evidence before me and presume it to be correct—he did not oppose the payment of the thirty-two millions of debt by Virginia, but only advocated, even after that period, I believe it was, a reduction of the interest to three per cent. I will ask the clerk to

read a slip that I send him, which is reported to be an extract from the speech of General William Mahone, at Mozart Hall.

The Chief Clerk read as follows:

"Impoverished and disheartened as are our people, onerous and oppressive as is the present rate of taxation, opposed as I have been and still am to such increase, thereof, and certain as I am that such increase to some extent must be necessary after 1880, yet to secure the great object of a settlement of this question and to avoid that direst of all calamities to the State, a repudiation of its obligations, unless some settlement can be arrived at upon terms at least possible, though difficult of endurance, I would earnestly advise this people to accept a permanent settlement at 3 per cent., believing that they could, if called upon, see that the quiet and repose gained thereby would counterbalance the hardships of an increase which they are so little able to bear. I would use my best endeavors to secure a vote of the people sanctioning a settlement at 3 per cent. for forty-five years on the basis of \$32,977,090.02. And this settlement being ratified, I would enforce it by the Legislature and courts, whose powers I believe to be fully adequate thereto. I would do so because I believe it to be right, because I believe it is the only way to avoid consequences we would all regret deeply, because I believe it is to the best interest of the bondholders and the tax-payer, and because I believe it is a duty we owe to the Commonwealth of Virginia."

Mr. Brown. If that be the correct extract from the speech of the senator from Virginia at Mozart Hall, he stood then for the payment of a debt of \$32,000,000 and over, with 3 per cent. interest. He was not then a real adjuster, and possibly his position on that subject since may be as inconsistent as some of my inconsistencies to which he has referred, and in that connection let me refer to one or two other of his charges.

He says I accepted the position of chief justice of my State from a carpet-bag governor. While I was acting with the Republican party I did accept the position of chief justice of my State from the governor and senate of Georgia. The gentleman who occupied the position of governor at the time it is true was a Northern man by birth, but he had been many years in Georgia before the war and was president of a railroad company in Georgia at the time he was elected governor, and I believe also superintendent of an express company. He was a business man there and not regarded as a carpet-bagger at the time.

However, the senator says that I then resigned that position and accepted the presidency of a railroad company. That is true. I had a twelve years' term as chief justice; I had served less than three years when my health began to fail on account of the labor and close confinement, and I did resign the high position I held and took charge of a railroad as president. But the history of the railroad of which I am president and that of the one of which the senator from Virginia has been president are a little different. The one I took charge of has been a financial success; I have taken care of the interest of its stockholders; I have made the stock good to them; I have paid its bonds and coupons promptly as they fell due, and it is doing well to-day. The railroad of which the honorable senator from Virginia was president I think has not so well served the interest of the stockholders, or even of all the bondholders, as it has gone into bankruptcy and had to be sold out for its debts. That is the difference between the senator from Virginia and myself on the railroad question. [Laughter.]

The senator turned a period or two upon the subject of bargains, and seemed a little in fear of competition in that line. But I beg to assure him that he has no reason to apprehend danger on that subject. Neither I nor

any other senator is likely at any time to be his competitor when there is occasion for bargain and sale. He went out of his way to state that there was dissatisfaction with my appointment to the senate at the time it was made by Governor Colquitt, of Georgia, and gave by indirection his sanction to a groundless charge that there was some sort of an improper understanding between me, Governor Colquitt, and General Gordon on that subject. Our enemies fabricated a well-known falsehood, alleging that there was an improper understanding between us. We each stamped it as a falsehood and sent the denial with the evidence to the country. As stated by the senator from Virginia, there were two or three indignation meetings held in Georgia, gotten up by a few of our enemies, to denounce Governor Colquitt on account of my appointment. The people of Georgia were indignant at the injustice done by those meetings. We both appealed to the people, Governor Colquitt as a candidate for governor, and I as a candidate for United States senator. There is no allegation in any quarter that anybody was prevented from voting. No one pretends to deny that there was a free vote and a fair count. Every qualified voter in the State who desired to do so came to the polls. My position was fully defined. I announced myself in favor, as I have been for years, of the strictest conformity to the reconstruction measures, in the utmost good faith, and of scrupulous fidelity in the execution of the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States with the protection of every legal right of every citizen. What was the result? Governor Colquitt was re-elected as the executive of our State by a majority of 55,000, and I was elected to this senate by over two-thirds of the representatives of the people. The gentleman is welcome to all he can make out of that charge. There was no sailing under false colors. I ran as a Democrat upon this liberal, progressive line; I was elected as a Democrat upon that line, and I expect in good faith to so continue.

But, Mr. President, the senator from Virginia was very indignant yesterday; he was hurling back at everybody on this side of the House the statement that there had been any bargain or contract between him and the Republicans. I have not asserted it. I did say the other day in debate that the air was full of rumors of that character. I think no gentleman who walks the streets of the city of Washington or reads the newspapers of the Union to-day will doubt that that statement was correct. Not only is the air full of rumors, but it is on every tongue that there has been a contract of that sort. I have not said it was true, but I take it the statement I made and the obstructions that I threw in the way of carrying out the contract, if it exists, must have had some effect. I think, in a word, I did hit cock sparrow, for it is said the feathers flew, and it seems that the ball has left a little sore.

But first the senator palliates his position on repudiation by saying that other States have been guilty of repudiation. Well, other Southern States have thrown off certain burdens that were put upon them during the reconstruction period by carpet-baggers, as they think, or by the reconstruction Legislatures, where those in power thought the debt was not an honest one. But Virginia can plead no such palliation. I do not understand that her debt was increased to any considerable extent during the reconstruction period. Her debt is the old debt of Virginia, for which she received value dollar for dollar. She got it in the building of railroads, her various internal improvements, etc. She made the debt when there was no question about the consideration, and it would seem that she is less justifiable in repudiating a portion of it than other Southern States would be in repudiating a portion of the reconstruction debt where they got no just consideration for it.

So much for repudiation in Virginia.

The senator says there has been no contract between him and the Republicans. I do not affirm that there has been, but I reiterate what I have said before, the air is full of rumors to that effect, and I believe to-day that a very large majority of the American people are of the opinion, whether truly or not, that there has been such a contract. Well, going on the supposition that it exists, let us see what are the evidences of it. A strong chain of circumstances, connecting well with each other, is the most conclusive kind of proof. Many a man has been convicted of high crime upon circumstantial evidence, and justly convicted. Without any assertion as to whether there has been a contract or not, let me refer to some of the proofs that seem to establish that fact.

In the first place the senator from Virginia was a Democrat, a true Democrat, as he always convinced his people up to the time, as I have already stated, of his defeat for governor by the Democratic convention. After that it is true he commenced finding fault; and although he took position for paying \$32,000,000 of debt at 3 per cent., he afterward changed that, because it was necessary to make a stronger point against the Democrats of Virginia, and he took a position for readjusting that amount and for reducing it in round numbers \$12,000,000. The first was to be a readjustment with the consent of the creditors, taking off one-third, as I understand, for West Virginia. The last readjustment, if I understand the question, was \$12,000,000 more to be stricken off absolutely without consulting the creditors, or without their consent. The Republicans formerly called that repudiation. In fact, in my own State to-day, though she does not owe \$12,000,000, if she were to strike off \$10,000,000 at one stroke of the pen without consulting the creditors, I presume the Republican presses of the North and of the South would say that Georgia had repudiated that much. We might call it readjustment; but they would still insist that it was repudiation.

But I have never understood yet that the Republican party approved of the repudiation by the other Southern States of the debt contracted during the reconstruction period for which no consideration was paid. No; I think the Republican party has stood *par excellence* as a party of debt-payers. They have held that all debts ought to be paid everywhere; and it does seem the spectacle is a little novel when they take up a repudiationist and a Democrat as their candidate for an important office in the senate. People will naturally say this needs explanation.

But let us go along with this case. When the honorable senator from Virginia came to Washington nobody here knew, at least the public did not know, what position he was going to occupy. He had always claimed to be a Democrat in his State up to 1877, and though he had separated from the organization after that time and established a readjusting party, yet when the two candidates for president were put into the field last summer, and he had, as we thought generally we had, good reason to believe that General Hancock would be elected, and would have the distribution of the patronage, he rallied under the Hancock banner, and his man Riddleberger stood with him. Yes, they were the very essence of Democracy; they were the leaders, as they claimed, of the Democracy of the Old Dominion.

And it is said—I do not know that fact—that communications between those leaders of the Virginia Democracy, General Mahone, Mr. Riddleberger, and others, were kept up with the Democratic executive committee, and even with General Hancock, holding out the idea that they were the true Democracy and could carry Virginia for him. But we cannot always tell what the tide of fortune will do. It turned the other way this time, and contrary to our hopes and expectations the Republican candidate was

elected. Then the senator from Virginia was silent on his Democracy until he came here; no one seemed to be able to locate him. After he got here, the air was full of rumors that there were conferences going on all the time between him and certain Republican leaders, and it was said on all sides again and again—I cannot say with what justice—that Mr. Gorham, who is now nominated for secretary of this body, was in very constant communication with him; that they were good friends, so much so that some of the newspapers have even said that Mr. Gorham was his political wet-nurse. [Laughter.] I do not know anything about whether that is true, but it is evident they were great friends, as everybody admits.

Negotiations or interchange of visits, or whatever they might have been, went on between him and various parties until there was a Republican caucus. The same rumor is that while the Republican senators were meeting in one room caucusing the honorable senator from Virginia was in another room in this building, and that there was frequent communication between them, a going back and forth, consultation, as it seemed to be understood. What was the result? The result was that Mr. Gorham, this special friend of the senator from Virginia, was nominated for secretary of the senate. And who is Mr. Gorham? I understand he was once secretary of the senate and an ardent Republican. Since that time, if the newspapers are to be credited, he went to his State, California, bolted the Republican organization, supported Dr. Glenn, the Democratic candidate for governor, and was in effect read out of the Republican party there. Still he was the intimate friend of the senator from Virginia, and when the caucus adjourned it soon came to light that he had been taken up by the Republicans again, rebaptized again into the faith I presume, and nominated as their choice above all men for secretary of this senate.

Again, Mr. Riddleberger—and I presume he is a very clever gentleman—who had been a Democrat all the time, as I understand, in Virginia, and in the late contest, though a readjuster, was not only a Hancock man, but one of the electors for the State at large for Hancock and English, who worked and did all he could to defeat your candidates. He was the right-hand man of the senator from Virginia; and when the caucus adjourned it soon came to light that by some marvellous sort of change—I do not know how; a sort of hocus-pocus—he had become one of the leading Republicans of the United States, transformed in a very short time, and he had been selected in preference to all living men, out of about four and a half millions of Republicans in the United States. Yes, Mr. Riddleberger had been agreed on by the senatorial caucus of the Republican party and presented as the Republican candidate for the sergeant-at-arms of this senate.

I say a man has a right to change his opinions. I have exercised that right in the past, I admit. I may do it again in the future, whenever I think I ought to do it. A man is a Bourbon who never changes; but it is not usual, I must say, for a new convert who has just now changed over to be so much favored by the party with whom he has just united. I do not know for what distinguished services, but for some good reason, no doubt, Mr. Riddleberger, of Virginia, this life-long Democrat, this Hancock elector for the State at large, is chosen by the senatorial caucus of the Republican party as their first choice for the position of sergeant-at-arms.

It may be I have been a little too fast; that I have got a little ahead. I have shown the result of the Republican caucus possibly without showing the consideration, as I am now proving the bargain. Before that time there was an election here for the committees of the senate. We being in power on this side had attempted to organize those committees. You on that side had filibustered for nearly two weeks, because you were not ready, and we

could not go on with the regular business of the senate. When you reached the time, however, that you filled all your Republican vacancies and the senator from Virginia [Mr. Mahone] had come fully into your embrace, you were then ready, and you went forward with the organization of the committees. As committees were necessary, we offered no dilatory resistance.

Mr. Conkling. Will the senator allow me to inquire one moment—

Mr. Brown. No, sir, I will not permit any interruption.

Mr. Conkling. I will accept that if the senator wishes it to stand there. I was about to ask him to correct a statement of his own, but if he does not wish to be corrected I certainly shall not interrupt him.

Mr. Brown. If I have made any misstatement, I, of course, yield.

Mr. Conkling. I think the honorable senator made a grave misstatement, and I feel quite sure an inadvertent one.

Mr. Brown. I yield with great pleasure if for the purpose of correcting a misstatement.

Mr. Conkling. I understood the senator to assert that this side of the chamber for two weeks had filibustered.

Mr. Brown. I said for nearly two weeks.

Mr. Conkling. The senator is equally inexact. I rose to remind the honorable senator that without any motion on the other side to take up the resolution to which he refers, organizing the senate, a good many days elapsed, and that it was not until the week when the seats became full that delays were suggested on this side; so that instead of its being a delay for two weeks or nearly two weeks it was for less than one week. I think the senator would hardly, upon his attention being called to it, like to make so broad and I think so unjust a statement.

Mr. Brown. Whether I am right or the senator is right as to the exact time the Record will show. Of course I have no disposition to misstate the case.

Mr. Conkling. So I supposed.

Mr. Brown. The senator from New York, however, will not deny that there was filibustering on his side to prevent the election of the committees. I may be in error about the length of time.

Mr. Conkling. If the senator will not feel it an imputation, I will with great respect to him deny that there was filibustering, and I will affirm that in place of there being filibustering there was some earnestness of protest on this side against proceeding at a day so late as it had then come to be, when senators who had been elected to vacant chairs were some of them already on their way to this capitol; but I think that protest and that remonstrance fell very far short of what I understand to be filibustering; so that without meaning to do it offensively to the senator at all, I do respectfully deny that there was filibustering.

Mr. Brown. The senator from New York calls the same thing by a different name, and I am willing for him to have his own opinion about it. It is very evident that motions to adjourn and motions to go into executive session alternately were made here by the senator from Pennsylvania from day to day. We call it filibustering; we did at the time. I believe that is what you call it now when we interpose such objections. Therefore, I still say that, according to my interpretation of that sort of conduct, it was filibustering. It was delay; it was fighting for time to get the power to carry out the purpose. You would, I suppose, call it filibustering when done by the Democrats, and an effort to secure delay when done by the Republicans. We call the same thing by the same name in both cases.

But I will proceed with my narrative. I am going on with the evidence of this contract, and I do not care to be interrupted unless I should inadvert-

ently make some error in my statement. We heard the senator from Virginia yesterday three hours, and nobody interrupted him once.

Mr. Conkling. I beg the honorable senator's pardon.

Mr. Brown. Not at all.

Mr. Conkling. The senator from Georgia is speaking extemporaneously, and as he is a very practical debater it never occurred to me that it would be a serious inconvenience to him to have his attention called to an inadvertent inaccuracy of statement.

Mr. Brown. It has not been by any means. The senator and I only differ about the accuracy of the statement as it is a question of time. I may have said that it went on for a little longer than was the case. The Record may show that I am right, or it may show that the senator is right on that particular point. He is entitled to his opinion and his recollection of that, and so am I. That point is not at all important in this instance.

We did reach a time when we came to a vote on the question of the organization of the committees of the senate. There were thirty-seven Democrats and thirty-seven Republicans in this chamber. The vice-president is a Republican. The senator from Virginia had always been a Democrat up to the end of the Hancock and Garfield campaign, if we may judge him by his conduct and profession during that campaign. Coming here from that sort of field, with that kind of precedent and course of conduct, with those antecedents, he left the Democratic party and voted with the Republicans for the organization of every committee just as they proposed to organize the committees. Every vote that he has cast in this chamber since that time has been on the same line. He has never voted with the Democracy a single time.

Now, when we take into the account the two things and put them together, it is a *peculiar coincidence*, to say the least of it, that the senator from Virginia, always a Democrat up to a very late period, should vote with the Republicans on the organization of every committee, and that he should continue to vote with them on every issue since that time; and then in a very short time afterward, that they should meet in caucus and nominate his intimate friend Gorham, who had bolted their party a year or two ago and been read out, and Riddleberger, who had always been a Democrat, a Hancock elector, who was his bosom friend and his right-hand man, and should put them forward here as the Republican candidates,—I say, there is a very peculiar coincidence about it, to say the least. It may have been no bargain; it may not have been even a capital understanding; but I will call it a *coincidence*. It is just one of those things that happen sometimes in life, I suppose; but there is something about it peculiar that it should happen under such circumstances.

But there is another point about it which is a little peculiar. It has not been the habit of the senate to reorganize the officers of the senate at an executive session. There was one exception to that rule in 1853, when, the tradition says, there was a man in one of the positions who did not give satisfaction, who was not considered worthy, and they took the matter up at that executive session and went into a reorganization, dismissed him, and put another man in his place belonging to the same party, and re-elected all of the other officers. Therefore, according to the precedents, it is not usual at this time to reorganize the officers of the senate. It is usual to wait until the business session of the two houses. But after the peculiar coincidence that I have spoken of it seems to become essentially necessary in this case—supremely important—that we should reorganize the officers of the senate now and elect these two special friends of the senator from Virginia.

True, as I stated the other day, there are very important nominations

before us that it is the custom of the senate to act on at this time. We are called together by the president of the United States for that very purpose. That is what we are here for. There is a vacancy upon the supreme bench of the United States, and I am informed that court adjourned to-day for want of a quorum. There is a vacancy, as I have stated heretofore, in the court of claims. There is a vacancy in the position of the circuit judge of the fifth judicial circuit, where in my own town the term is running and the judge ought to be there. The district judge is sick, and not able to attend to the duties. A judge from another State is there to do district judge's duty, and the United States circuit judge is needed there to hold his court. Public ministers and other important officers have been nominated, and it is our duty to act upon the nominations. But these matters are insignificant compared with the overwhelming importance of electing a secretary of the senate and a sergeant-at-arms who are the bosom friends and right-hand men of the senator from Virginia. These other matters that I speak of may be important questions, but they sink into insignificance compared with the great importance of electing these officers here contrary to general usage. That is another coincidence in this matter—another peculiarity about it.

Again I ask, why in the first place should these two men have been selected by the Republican caucus over everybody else under these peculiar circumstances; and then why should this stubborn fight be made for their ratification over all the other important nominations before us, and over the importance of three or four treaties with foreign powers? There is another coincidence that is a little peculiar; it happens so, I suppose; still the people of the United States will naturally inquire why these things are so. Why is it so? The people of the United States are an inquisitive people; they will look into this sort of thing. We have an energetic press; they are always inquiring; and now these coincidences that are denied to be a contract have been taken up by them, and all around they say it was a contract, and some of them even say it was a corrupt bargain. I have not said so, but I see it in the papers.

I presume it is these peculiar coincidences that cause people to think there was a bargain and sale here. There is one point about it, however, if it is a bargain, (and all these facts and circumstances look very much that way,) we do not on this side of the house intend to be parties to it. If there has been a bargain and sale here, and the contract has been carried out on one side, we will not help to deliver the goods to the other side. We will stay here a long time first.

We have just reasons for remaining here to prevent the turning out of good officers of the senate (when you have half of them and we half) in violation of the general usage; but we have still higher reasons, yes, infinitely higher, for preventing the consummation of what looks to the country to be, what the people of the United States believe to be, a contract for the election of these men on account of a consideration received by the other side. If there has been such an arrangement, whether it is to be dignified by the term contract or not, then I believe we reflect the popular will when we stay here and say we will never be a party to it nor see it consummated while we have power to prevent it. I believe we are right when we stay here, and call the attention of the American people to this extraordinary coincidence.

All this may be, as I have said, mere happen-so, but it does not look right. There is something about it that I do not fancy. It reminds me of a story that it may not be quite proper to relate here, of a 'coon and a polecat, sometimes called the skunk. It is said that a 'coon left his house one day and went in quest of food. On his return he found some other animal down

in the hollow of the tree where his home was. He thought it was a cat, and challenged it by saying, "A cat?" "No," said the polecat; "I am a 'coon." Said the 'coon, "You don't look like a 'coon." He replied, "But I am a 'coon." Said the 'coon, "You don't talk like a 'coon." He repeated, "But I am a 'coon." "Ugh," said the 'coon, "you don't smell like a 'coon, and you are not a 'coon." [Laughter.] This transaction does not look like it was a proper transaction, and it does not smell like a clean transaction, and we do not intend to be a party to it. We will do all in our power to prevent its consummation.

It may be that all this ado about it is without foundation, but I think if this matter were put on trial before a jury of the country and the issue was whether the contract could be established, we might apply to it the usual rules of evidence for practice and have no hesitation in going before a jury and claiming a verdict. I am not sure that we could not go further. I am not very fresh from my reading of Blackstone, Starkie, and some of the older authorities, but if I recollect, I think it is in Starkie on Evidence, probably in reference to criminal cases, the rule is laid down that the evidence must not only be consistent with the hypothesis of the guilt of the prisoner, but inconsistent with every other reasonable hypothesis. I think the evidence here is not only consistent with the hypothesis of a contract, but it seems to my mind to be inconsistent with every other reasonable hypothesis. Therefore, applying the rules in a criminal case to it, I think we should convict the defendants, the parties to the contract.

I think I can see in the sedate manner and grave appearance of some of my friends on the other side of this chamber that they feel they are a little in the condition of the man who caught the wolf. After scuffling with it a good while he called upon his friends to come and help him let it loose. Or it may be that you are a little nearer the condition of the man who won the elephant at a raffle. He got him, but he did not know what to do with him, and he was in great trepidation about it. You have won the elephant in this case, and it seems to me you are not in very good condition to get rid of him, for if you do not stand by his friends and elect them to office he may turn upon you and rend every chairman of you, and turn you all off from the heads of the committees.

Possibly I am wrong about that. It may be that you are in the better condition of the astronomer who looked through his telescope at the moon, and after gazing at it for a time he told his friends that he saw a large elephant upon the surface of the moon. His friends said, "That is impossible." The astronomer looked again. "Yes," said he, "there is a large elephant on the surface of the moon; I not only see it, but I saw it move just that minute." His friends gathered around him then and there was great excitement, and it was a very great problem how it could have come there or why it had never been seen before. At length some one looking carefully found that there was a mouse between the lenses of the instrument, and it turned out that instead of having found an elephant on the surface of the moon, the astronomer had a mouse in his telescope. [Laughter.] I think it is possible that my friends on the other side have not the elephant they think they have caught. I believe they could let him loose, and possibly in the end it would turn out instead of a huge elephant to be the diminutive form of a little mouse.

I know the condition may be somewhat embarrassing, and I do not wish to see our friends on the other side embarrassed. But this peculiar coincidence, this strange state of things that has come along here, that nobody can account for, that made our friends over there the chairmen of the different committees that are generally given to the majority, that gave them the

control of the committees and business of the senate, that gave the senator from Virginia the chairmanship of the committee he desired, that put him on several other important committees, that was followed by the nomination of his friends, one of them a Democrat, for these offices—I say this strange coincidence may be and doubtless is somewhat embarrassing, and I sympathize with our friends in their embarrassment, but I must still reiterate that we cannot afford to make ourselves parties to it, and while we dislike to submit to the personal inconvenience of remaining here, or to subject those on the other side to that inconvenience, we feel it is our duty to stay here whatever time may be necessary to prevent the consummation of what the public believe to be a bargain and sale, or at least to prevent the election of these caucus candidates who have been nominated under this strange coincidence.

SPEECH OF HONORABLE JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, APRIL 14, 1881, ON A FREE BALLOT AND A FAIR COUNT. COLORED CITIZENS IN THE SOUTH HAVE GREATER FREEDOM OF BALLOT THAN A LARGE CLASS OF WHITE CITIZENS IN NEW ENGLAND HAVE. THE EFFORT OF THE REPUBLICANS TO RECONSTRUCT AND RADICALIZE THE SOUTH DISCUSSED. INDEPENDENT DEMOCRATS OF THE SOUTH, SUPPORTING INDEPENDENT CANDIDATES BECAUSE THEY WERE NOT CONTENT WITH THE CAUCUS SYSTEM AS PRACTICED, DID NOT START TO FOLLOW INDEPENDENT LEADERS INTO THE REPUBLICAN CAMP, AND WOULD NOT DO SO IF INVITED. RIGHTS OF THE COLORED CITIZENS DISCUSSED. THE REPUBLICAN PARTY HAS DONE JUSTICE NEITHER TO THEM NOR TO THE WHITE REPUBLICANS OF THE SOUTH. SOME INTERESTING FIGURES.

The Senate having under consideration the resolutions submitted by MR. DAWES in relation to the election of officers of the Senate—

MR. BROWN said:

MR. President: At the end of what was known or must now be classed as the war of the rebellion because it was unsuccessful, the Government of the United States was in the hands and under the control of the Republican party, and I admit they had very difficult problems to deal with in reorganizing the machinery of government and putting it into operation again. Whether they dealt wisely or unwisely has been a question for the people to determine and is yet a question of debate. They thought proper to pass what were termed the reconstruction bills into laws. Those acts disfranchised and drove from the ballot-box, in the elections for the conventions that were to form constitutions for the Southern people to live under, probably two hundred thousand of the most intelligent, cultivated, and educated people of the South, including all persons who had ever taken an oath in any office to support the Constitution of the United States and had afterward in any way whatever aided the war of the rebellion. I fell in that class, and I stood by and saw my negroes, or those that had been mine, vote in the election for members of the convention who were to form a constitution under which I was, to live while I was excluded from the polls. There may have been—I do not say there was not—"a fair count" then, but there was not a very "free ballot." It was free, however, to all the males of the colored race who were twenty-one years of age and upward. They all had the right to come to the ballot-box and exercise the suffrage; I think they were generally there.

At a subsequent period, however, the grave question arose as to whether these mere acts of Congress were enough on this subject, and it was found

by the Republican party that it was necessary to propose a constitutional amendment that would guaranty to all persons, without regard to race, color, or previous condition of servitude, equal rights at the ballot-box.

These measures were regarded very hard measures by the people of the South. I thought so; but having taken part in what is to be termed the rebellion, I recognized the Government of the United States as my conqueror, and when these terms were dictated I acquiesced in them and advised my people to do so, and I think they committed an error—but there is a difference of opinion about that—in not promptly accepting those terms. I think the mistake we made when you put the suffrage into the hands of the colored race was that we indicated displeasure at it. The colored people were our friends, and we were their friends; but when our people—and it was the most natural thing on earth that they should have taken the course under all the circumstances—thought proper to make an issue on this question; and the carpet-bagger—and by that term I do not mean the Northern man who came South for any honest purpose, but the man who could not have been elected constable in Massachusetts or Ohio, who came down to the South simply for the purpose of taking charge of the colored people and securing their support for the promotion of his ambition or his interest—when the carpet-bagger took our former slaves into the out-houses or school-houses at night and swore them into the Union Leagues, they were taught to believe that on that question our people were not their friends; and it was probably very natural that they followed this class of Northern men who said to them, “The Government of the United States has given you the right of suffrage and we are here to see that you have it.”

At that day I took position for absolute acquiescence in the reconstruction measures, and in the dictation of my conqueror. I said the terms were hard, but I believed it was better to accept them promptly; I recognized your power to dictate them, and I thereupon, after the passage of the fifteenth amendment, took position for “a free ballot and a fair count” in Georgia and all over the South, and I have stood there from that day to this, and I stood there at a time when, to say the least, it was a matter of some inconvenience to a man to stand there.

My friend on my left asks, where did the senator from Virginia stand? I understand him to ask where did the new Republican senator from Virginia then stand? I do not know. I was noticing Georgia matters then more than Virginia matters; but I had always been under the impression that he stood with the Democracy at the time when I temporarily separated myself from them upon that issue, and that he then voted with those opposed to the reconstruction measures.

Times have changed. The past year I entered the senate under an executive appointment. There were those in Georgia to whom that appointment was very distasteful and, as I stated the other day, there were popular demonstrations in two or three counties against the governor of the State for having tendered me that appointment. The governor appealed to the people upon that issue, and I appealed to them also, and announced myself a candidate for election to the Senate of the United States. What was the result? Two Democrats ran for the office of governor; both planted themselves fairly and squarely on the line of “a free ballot and a fair count,” and I think I may say with perfect propriety that at no time in any State in this Union has there been a fairer election or a fairer count. No one has complained, so far as I have heard, of either party, that anybody was excluded from the polls who had a right to come there, or that there was coercion, or that there was any unfairness of any character. Members of the Legislature

were elected in the same manner; and when the Legislature met, standing as I did before them as a Democratic candidate for the United States senate, I received a majority of more than two-thirds of the Legislature; every Republican in the body and nearly two-thirds of the Democratic members voted for me.

Then I affirm in the senate chamber to-day that the Democracy of Georgia stand fairly and squarely upon the doctrine of "a free ballot and a fair count," and that they practice it. My colleague has announced the same doctrine. There is no division among us on that question, and it is not probable that there can ever again be such a division. All that is said in reference to any unfairness in elections there, or any disposition on the part of the Democracy of that State to drive from the ballot-box any one entitled to vote, is gratuitous and unfounded.

The honorable senator from Connecticut [Mr. Hawley], in his very able and eloquent speech, the other day, on the Republican side of this chamber, said :

"The South, the solid South, declares that the fifteenth amendment is a failure, that it cannot be executed in letter and spirit."

I deny it. With all due respect to my honorable friend I say the South, the solid South, occupies no such ground, and takes no such position. There is no place on the face of the earth to-day in any civilized government where there is a freer ballot; and there is no question about it that the fifteenth amendment is acknowledged to be binding, and in practice that it is faithfully carried out.

The same honorable senator said :

"I come back to the great fact which you, sir, and I, and every man in this land must accept, and may as well make up his mind this hour to accept, now and hereafter, that universal suffrage is the law of the world of late, and is the irreversible law of this Republic to-day."

I deny that, too. Universal suffrage is not the law of the world at present, and never was, nor is it the law of any civilized government in the world. Universal suffrage is not the law of this Republic to day, and never has been. I admit it is manhood suffrage in most of the Southern States, and each male citizen, twenty-one years of age, without regard to race, color, or previous condition of servitude, may go to the polls and vote; but it is not the law of Connecticut; it is not the law of Massachusetts, and it is not the law of Rhode Island.

Senators from those States have said and said properly, that the States have a right for themselves to regulate this question. That they have a right to say what restrictions or qualifications shall be put upon suffrage, I admit; and much as State rights may have trailed in the dust, and much as they may have been overridden and duntrodden, I am glad to see Massachusetts and the other New England States come up and take the lead in the affirmance of that doctrine. I desire to do no injustice to your States. As I have already said on this floor, I admire your industry, I admire your thrift, I admire your enterprise, I especially admire your educational systems, your colleges, your universities, all that you have done for the civilization of the country and of the age in which we live. I admit that you are a great people, and that you are a powerful people; but while that is true, and you have ample time to attend to your own business and do it well, I think you appropriate a little too much of your time in attention to *other people's business*. Now if you would only be content that other people of other States exercise the same privileges and rights that you claim for yourselves on that subject, to regulate this question for themselves, and if you would be content for us to carry out an important principle of the constitu-

tion of Massachusetts—I do not say whether a wise one or not—probably we should all get along better. In the constitution of Massachusetts I find this language:

“Wisdom and knowledge as well as virtue diffused generally among the body of the people being necessary for the preservation of their rights and liberties; and as these depend on spreading the opportunities and advantages of education, in the various parts of the country, and among the different orders of the people, it shall be the duty of the Legislatures and magistrates in all future periods of this Commonwealth to cherish the interests of literature, and the sciences, and all seminaries of learning, etc.—*Constitution of Massachusetts*, chapter 5.”

Here you lay down the doctrine that wisdom, knowledge, and virtue diffused generally among the body of the people are necessary to the rights and liberties of the people. If you had permitted us to apply that rule in the South, we should have had less difficulty. You have put upon us by your legislation an immense mass of ignorant voters. They have not wisdom, they have not knowledge, some of them even have no virtue, as is the case in every community. These are not diffused among them; from the very nature of the case it cannot be; and yet how anxiously you guard their rights to go to the polls to make laws for us and to regulate our affairs. You have, it may be wisely or unwisely, excluded them from the polls in your States. They must have something of this wisdom, something of this knowledge, something of this virtue there, before you permit them to go to your polls. Why? Because I presume you are not willing to trust your rights, your liberties, your property, all that is dear to you, the very organization of society itself, in the hands of the more ignorant and less virtuous part of your people. And in order to protect yourselves there and protect your property, what have you been compelled to do? You have in carrying out that very idea I admit—I wish to do you no injustice—placed a wall of constitutional steel between the men who would exercise manhood suffrage in Georgia and excluded and driven them from the ballot-box. Your constitution says that no male citizen shall vote until he can read your constitution in the English language and write his name. Your constitution and your laws further say—I do not remember whether that is a constitutional or statutory provision, and I will not misrepresent it—that he must have resided twelve months in your State, if he is a citizen coming in from another State, before he can vote; he must have paid a tax assessed against him within the last two years, and he must be neither a pauper nor under guardianship.

Now, what is a pauper in your State? I have not found the direct definition, because I may not be as familiar with your laws as I ought to be with our own, but I have found a description of a pauper, as I suppose, correctly, where it is provided who may enter an almshouse, and I there find this designation:

“Paupers in Massachusetts are poor and indigent persons who are maintained by or receive alms from city or town; who, *being able of body to work*, and not having estate or means otherwise to maintain themselves, refuse or neglect to work; who *live a dissolute, vagrant life*, and exercise no ordinary calling or lawful business; who *spend their time and property in public houses*, to the neglect of their proper business; or who, by otherwise *mispending what they earn*, to the impoverishment of themselves and families, are likely to become chargeable to the city, etc.”

Mr. Hoar. Mr. President—

Mr. Brown. I will permit a reply after I am through; but I prefer not to be interrupted.

Mr. Hoar. Mr. President—

Mr. Brown. I decline to yield. If I misstate any matter connected with Massachusetts the senator will have a fair opportunity to correct me when he gets the floor. I do not state that this is the definition of a pauper; I only find that to get into the Massachusetts almshouse—and that is where a pauper generally goes—these seem to be the qualifications. But at least there is a class of people there who are known as paupers. It will not be denied. Now, whether that is the correct definition of a pauper or not, certainly all who fall within the correct definition of a pauper are excluded from the ballot-box. There may be many or there may be few. But they are an excluded class.

Then, in reference to spendthrifts: There is a class of persons, as I understand, in Massachusetts who are spendthrifts, as is the case in every community unfortunately. You have a provision, probably a very wise one, there, for appointing guardians for those spendthrifts. The word "spendthrift," as your law-books, I believe, say, includes every one who is liable to be put under guardianship on account of excessive drinking, gaming, idleness, or debauchery, and who spends his property in these vices. I suppose you execute your laws faithfully, and if you do, all those who indulge in drink to excess, or indulge in gambling to excess, or in idleness to excess, or in debauchery to excess, and thereby misspend their property, are under guardianship as spendthrifts, and they, too, are driven from the ballot-box in Massachusetts; it is doubtless a good long list. There may not be many paupers. I may be wrong and the senators may be right, and they will correct that if necessary when the proper time comes, in reference to the class of persons I have been referring to as paupers, but you certainly have some paupers. If you did not have them you would not make the exception in the statute and say they should not come to the ballot-box; you certainly have a class of spendthrifts that you have provided guardians for, and they are embraced under your statute with persons who indulge in the vices already stated—

Mr. Hoar. The senator is mistaken.

Mr. Brown. I prefer not to be interrupted now. If I have the wrong page, or the wrong statute, then I still plant myself on the other statute which gives the correct definition, not being as familiar with the Massachusetts laws as the Massachusetts lawyers are. You do have a class of people who are spendthrifts, who are driven from the ballot box; you do have a class of people who are paupers, who are driven from the ballot-box—I do not say how many there are; you do have a class of people who have not been twelve months in your State who were voters in other States before they come there; you do have a class of people who if they have not paid their tax are driven from the ballot-box; you do have a class of people who cannot write their names and are therefore driven from the ballot-box; you do have another class of people who cannot read the constitution of Massachusetts in the English language, and therefore they are driven from the ballot-box. There is quite a numerous list of disqualified classes.

Now, on the principle laid down a little while ago that the people of Massachusetts and New England, being a thrifty people, whom I admire very much, with, as already stated, ample time to attend to their business and a good degree of time to attend to other people's, I incline to think that you have attended pretty well to your part of it in excluding classes that you think might be dangerous to your institutions at home from the ballot-box. I do not know how many there are excluded; I have to be governed by the statement of others on that subject, for I am not familiar with the state of things there. I can form an estimate, however, from the data at my com-

mand. I read from a speech delivered by the senator from Rhode Island [Mr. Anthony] during the last session of Congress, who is apt to be very accurate, I believe, and I suppose very good authority on that side of the house. He says:

"A distinguished citizen of Massachusetts has declared that the tax and educational qualifications in that State disfranchised a hundred thousand of its inhabitants, fifty times as many as the census returns render as disqualified by the real-estate qualification in Rhode Island. This gentleman estimates that by the enforcement of the fourteenth amendment the representation of Massachusetts would be reduced from eleven to eight."

That is taken from the statement made by the senator from Rhode Island in this chamber during the last session of Congress. I do not know whether he was right or not. I have so much admiration for his character and for his accuracy that I will not dispute the point with him; I will take it for granted that the senator from Rhode Island was right, and that he believed that the estimate made by this distinguished citizen of Massachusetts was not very far wrong, or he would not have introduced it here in his argument. If that be true, then there are 100,000 of the male citizens of Massachusetts over twenty-one years of age who are barred out by the constitutional inclosure that you have put around your ballot box, and cannot go to it; they cannot approach its sacred precincts. But the number may not be 100,000; that distinguished citizen of Massachusetts may have been in error. I heard that question canvassed somewhat the other day when the honorable senator from Florida [Mr. Call] was discussing this question. I think there it came down to the point, if I recollect correctly, where you admitted in round numbers 18,000 of your citizens of foreign birth and native born who are excluded from the ballot-box on account of their inability to read and write as required by your constitution and laws. That is my recollection of it. Eighteen thousand is a good round number to be driven from the ballot-box.

All this, as I have stated, may be entirely necessary in your opinion for the protection of your property and your rights, and for the preservation of your State institutions; and I am not assailing your right on that point; but I only say that there is probably no State in the Union that has so many qualifications on the right of suffrage, and probably none that bars so many of the male citizens of twenty-one years of age and upward from the polls. It is true, as the honorable senator from Massachusetts [Mr. Dawes] stated a few days ago, that the provision of the constitution in reference to reading and writing did not apply to those who were voters at the time it was adopted; but that was about twenty-three years ago; so that I suppose those who were then voters have in a great measure passed away, and it does apply to much the greater portion now.

Just in that connection let me state another fact. You are very exacting about the right of the negro to vote in the South. If my State to-morrow were to apply the rule of suffrage that is applied in Massachusetts to the colored people of Georgia, we should drive more than eight tenths of the whole number from the polls. Take the colored citizens of Georgia to-day over twenty-one years of age and let them move to Massachusetts, as they have a right to do, because they are entitled to all the rights, privileges, and immunities of citizens in the several States—let them locate in Massachusetts, and you drive eight tenths of them from the polls, and will not let them vote. Why? Because they cannot read the constitution of your State in the English language, and they cannot write their names; and therefore it is very well to give the negroes of the South the right of manhood suffrage and to insist upon it, but it will not do in Massachusetts. I do not know how many of the colored race there are there that are disfranchised. All who come within any of the exceptions I have mentioned are, however.

But I say, take the Southern colored men and transfer their citizenship to Massachusetts, and as they have had no chance to learn to read and write, if they were there now, as they cannot labor for their living and learn,—indeed many of them are not trying to do it,—they would be driven from the polls there by scores and hundreds and thousands. We have but a single qualification with us, and that is the tax qualification, which you have. We turn none away for any other cause unless they be insane persons or convicted felons, and most of the Southern States do not even have that qualification.

Mr. Dawes. How much is that?

Mr. Brown. There is a small number. If there were one hundred in the last gubernatorial election in Georgia excluded from the polls in consequence of the non-payment of the tax I have never heard of it, and I do not believe there were so many.

There is another point I will notice, Mr. President. All this ado about suffrage has but one object: it is to try to republicanize the South by the use of the negro. We might as well deal plainly about the facts. Let us examine the negro question a little. You did not enter into the war for the purpose of setting the negro free. He is not indebted to any of your good intentions at the time you entered the struggle for his freedom. You distinctly proclaimed to the world that that was not one of the objects even of making war on the Southern States. The reason given, and no doubt the one you meant at the time, was the preservation of the Union and the execution of the laws. Within a day or two after the battle of Bull Run you saved the Border States to your cause, greatly to our regret at the time, by passing almost a unanimous resolution of both houses here, the purport of which was that it was not your object in waging war to make conquest or to interfere with the institutions of the Southern States. Had you not done so, you could neither have carried Maryland nor Kentucky nor Missouri with you, and the termination of the struggle might have been different.

Then you were not making war for the benefit of the negro. And near the end of the struggle, on a very noted occasion, after Mr. Lincoln as a necessary war measure had issued his Proclamation of Emancipation, at Hampton Roads conference, as recorded by Mr. Stephens in the second volume of his History of the War between the States, at a time when all the parties except Mr. Lincoln were in life—and I have never seen its correctness denied—Mr. Lincoln indicated very clearly to the Southern commissioners that while he would take back nothing of his proclamation, it was a doubtful question to be left to the courts whether anybody was set free except the negroes who had fallen within your lines and had taken part with you; in other words, whether the emancipation applied to the colored people within our lines. He even went so far in the kindness of his heart and the generosity of his nature—and probably no man ever had more of either—as to indicate his willingness that \$100,000,000 be paid to Southern slaveholders for their slaves if peace could then be restored. Mr. Seward is reported as having said at the time that he would be willing that an amount as large as the balance of the necessary expenditure in the prosecution of the war should be paid for the negroes. It is true the Confederate government did not accept those terms, nor were they tendered in an authoritative shape, but only spoken of in the conversation as terms that might be agreed upon if the war could then cease. But I refer to these facts to show that the great object of the war, even up to the close of it, was not the emancipation of the negroes. It was, as Mr. Lincoln had said, the restoration of the Union and the execution of the laws.

As another evidence that Mr. Stephens has not mistaken this matter, in

his place in the House of Representatives on a noted occasion, the uncovering of F. B. Carpenter's picture, February 12, 1878, he used these remarks, and I have not seen them challenged:

"Emancipation was not the chief object of Mr. Lincoln in issuing the proclamation. His chief object, the ideal to which his whole soul was devoted, was the preservation of the Union. Let not history confuse events. That proclamation, pregnant as it was with coming events, initiative as it was of ultimate emancipation, still originated in point of fact more from what was deemed the necessities of war than from any pure humanitarian view of the matter. Life is all a mist, and in the dark our fortunes meet us."

That has not been challenged. Therefore I take it that Mr. Lincoln, even near the end of the war when he was holding the Hampton Roads conference, did not make the emancipation a *sine qua non*. He had other objects in his mind. Providence set the colored man free and not the Government of the United States. You did not expect it, and we did not expect it when we entered into the contest; but God in his mercy and in his benign providence interfered and struck the shackles from the hands of the race and made them free, and I am glad to-day that it is so; I was not then.

What was your next step? You did not apply to the Southern States the rule of the Massachusetts constitution, that wisdom and knowledge and virtue diffused generally among the people were necessary to the preservation of their rights and liberties. You did not apply the Massachusetts rule of suffrage to the Southern States. Instead of doing that, as already stated, in the election for delegates who were to form our constitutions, you disfranchised the great mass of Southern intelligence, and you turned all the negro males of twenty-one years and upward loose to the polls. I do not say it was not wise for you to adopt the rule you did for your home government, but if it was wise in Massachusetts, was it unwise to do it in Georgia? You may say that the South had been in rebellion, and that that made a difference. I give you all the benefit of that. Possibly you were justified to some extent in applying a different rule, but was it not your natural expectation, and should it not have been the understanding of every one, that when the colored race were given the ballot for their own protection, if you saw they needed it for that, that they should then be left to the usual rules applied to other citizens?

I want to be candid and intend to be; I admit that there were outrages soon after the close of the war. I only wonder there had not been more. Look at the situation. A proud wealthy people had entered into a contest in which they had been conquered and had lost probably a greater amount of property than almost any other people of like number ever lost in a war, coming out at the end of it almost destitute, with brothers, fathers, husbands, the cause they had been attached to, lost; everything lost. Then the conqueror dictated terms of the character I have mentioned, taking the slaves, without education, and placing them over us, driving us from the ballot-box and turning them loose to it. Was it wonderful that we thought this upheaval was sapping the very foundations of society? And was it wonderful, under these circumstances, that there should have been restlessness, that there should have been Ku Klux, that there should have been every effort to try to maintain something like society organized under the usual rules that apply in other States?

But that day has passed. There were outrages, I admit it; now there is as free a ballot as there is in any State in this Union. It has taken years to reach it. There are still outrages that may occur there (not in reference to the ballot, however) as there may occur outrages in Massachusetts or in any

other State; but we execute the laws there, and we are for disposing of the Ku Klux in any manner that is necessary to apply the remedy if they should raise their heads again. Only last year, near Cochran, Georgia—the case went the rounds in the newspapers—not with any view to politics, as we understand there, but on account of some grudge that some unworthy men had against a very worthy, steady, clever old colored man, they put on their masks, and they surrounded his cabin at night with arms in their hands, and demanded that he deliver himself up. He had a double-barrelled gun, it was loaded, he was a good shot, he aimed well, and he fired both barrels and killed one at each fire; and there they lay in his yard the next morning with their masks on. His course was applauded by all the white people of Georgia, so far as I know; the newspapers commented favorably on it, and expressed the hope that it might always be so when desperadoes gathered around the home of the humblest colored or white man at night; and I hope such may be the fate of all who may attempt it. He was never even arrested; there was nothing done with him, no legal steps were taken against him whatever; I do not know that he remained in the community, but everybody said he did right. It may have been that he was afraid to remain on account of the revenge possibly of the friends of those who had been killed; he probably thought it prudent to move from there, as it would have been in Massachusetts under similar circumstances, but his act met the approval of the people of Georgia. In a county of upper Georgia, on account of a Ku Klux outrage, three men were convicted on circumstantial evidence of being guilty, and sent to the penitentiary.

Outrages have occurred in Massachusetts. I remember years ago that the whole country was shocked by a report that a highly cultivated man there, a man occupying a high position—I refer to Dr. Webster—had for a paltry sum, probably two or three hundred dollars, killed his fellow-man, a man of good standing in society, and to conceal him had even mutilated the body and attempted to dissolve it by lime and other chemicals.

Mr. Dawes. And he was hung for it.

Mr. Brown. The senator says he was hung for it. I was going to give you full credit for that; but I want to draw a comparison between that and a case that occurred in Georgia at a much later period. You executed the law, I grant, and you did right. Some three or four years ago, in Floyd county, Georgia, in which is the city of Rome, a man named Johnson, of one of the best families of our State, a young man, reckless and somewhat dissipated, killed a young negro boy under circumstances of very decided cruelty. He was put upon his trial. All the influence of family and otherwise that could reasonably be brought to bear was brought in his favor and able counsel defended him. The jury found him guilty. Strong appeals were made by strong family influences to the governor to commute the sentence or pardon him. He refused and, as your man did in Massachusetts, he atoned for his offence on the gallows; he was hanged by the neck until he was dead. Yes, you execute your criminal laws where one white man kills another. So do we, and we execute them where a white man kills a negro; and so we should. You see, then, that our community is as orderly as yours is, we execute the laws as promptly and as faithfully as you do, and the ballot-box is as free.

Thus much in reference to how the colored men got the ballot and as to the execution of the laws. I am inclined to think, and I may be wrong there, and I do not wish to judge wrongly, that in giving universal suffrage under those circumstances possibly you had a little eye to power. There may have been at least a thought of party power in it, that it was the best way to republicanize those States, that it was the best way to get control of them

for the Republican party. I do not say that was the object, for I have no right to judge harshly the motives of others. At least you gave the negroes the ballot under circumstances that you would not give it to them at home, and at a time when you did not give it to them at home. I have here another little sentence from the speech of Senator Anthony that I wish to read in this connection. Even of the great State of New York, which is so well and so wisely governed, this is what Senator Anthony says:

"Many of the Northern States adhered to their discrimination against colored citizens till the results of the war compelled its abandonment, and all the Southern States retained or established it. In New York the proposition to admit colored citizens to equal rights of suffrage was submitted to a separate vote, with the constitution of 1846, and was rejected. It was submitted again, in an amendment in 1860, and again in 1868—" after the passage of the reconstruction acts, you will please bear in mind—"and was both times rejected. It was not adopted until 1874, when the fifteenth amendment to the Federal Constitution had removed the disqualification and established the equality of the whites and the blacks in the suffrage."

Therefore it was not simply the love of the colored man that prompted the giving of the suffrage in the Southern States. Even in that great State, as I say, they refused absolutely to give the colored man the ballot for years after it had been given in the South and they were exercising it there.

Again, I incline to think under all the circumstances that you have not dealt as liberally with these colored people as you might have done. There are fifty million people in round numbers in the United States. Of that number the Republican party lacks nearly 100,000 voters of being half, according to the Political Almanac. So, then, the Republican party represents a population of about twenty-four millions in the United States. There are six million five hundred and odd thousand of the colored race, more than one-fourth, if they are all Republicans, of the entire Republican party of this Union.

How many of the offices have you given them? What have you done for them? The last administration did give Hon. Frederick Douglass, who is a man of great intelligence and power, the position of Marshal of the District of Columbia; but if the reports be correct, he was not invited to do all the honors at the White House that have generally been performed by the Marshal of the District of Columbia. And rumor says, I do not know whether it is true, that now he will have to give way to a white man who can attend to all those honors and duties. I admit there is some palliation in that, because it has been reported that the white man is to come from that poor and neglected State of Ohio that never gets anything. That may be a reason for the change. What high positions have you given them? Are none of them intelligent enough to fill them? I see before me now a distinguished gentleman, Mr. Bruce, who occupied with dignity, urbanity, and character, a seat on this floor I believe for six years. You have seven cabinet ministers. More than one-fourth of the whole Republican population of the United States, if all the colored people are to be counted as Republicans, is colored; and yet there is no man among them who is considered worthy by your party to represent that fourth in the cabinet of seven. What high positions have you given them? Occasionally they have had the position of mail route agent, and occasionally a post-office, but what have you done for them? I think not a very liberal part.

Allow me to say here that in my opinion the Democracy have learned some wisdom by experience. I do not adopt the term that I have heard to-day, "Bourbon" Democrat; I do not know that I am one; I am on a more liberal line probably than some have been. I stand by the execution of the different Constitutional amendments, and for carrying out every right of the citizen

in the strictest good faith; but I think, as I have already stated, the Democrats have learned wisdom by experience, and you need not be astonished when they meet in grand council again as you have neglected to do justice to these people that they should do it. There will be no more trouble about a free ballot and a fair count then. If you will not do right by them we will. That is my opinion; that is my advanced position. I am a Democrat on that line.

Mr. Hoar. Will you do it any way?

Mr. Dawes. My colleague wants to know if you are going to do it any way?

Mr. Brown. I said I would under any circumstances.

Mr. Hoar. You said you would if we would not.

Mr. Brown. I will not do it simply for a party purpose. I will advocate it because I think it is right to do justice by them. That is not quite all. You have not been very liberal to the Republicans of the South without regard to race or color. There was once an eminent man. I believe, in this Capitol who said something about the cohesive power of public plunder. I do not use that phrase, however. But there is a cohesive power about executive patronage that has a good deal to do with keeping a party in power sometimes. Your party, one hundred and fifty-odd thousand in the minority of the popular vote in the United States, has almost the entire hundred thousand Federal appointments, and as you need them North, you do not send many of them South. You complain that you cannot build up the Republican party there. No, and as long as you take all the offices for yourselves, and as long as those that you give down there are given to carpet-baggers or to those who have no native influence there, you will not build up one.

I have taken pains to look a little into this question. I do not vouch for the correctness of the figures that I now use, as I did not make them myself, but I use them as such an approximation to accuracy as to illustrate properly the principle I am discussing. I directed one of my secretaries to take up the Official Register, the latest I had, for 1879. You will remember that along down in the columns of that you will see the name of the officer, from what State appointed, and where he was born; and it is a little remarkable to see among those given to Georgia how many there are who were not born there, and how many there are who were never heard of there. I suppose that is upon the principle, however, that, Georgia not having much share in the spoils, when an applicant came here and a senator or representative found that the places were full from his State and this office-seeker reported from Georgia, he was put down there. At least I cannot, on inquiry, locate a good number of them as having ever been known in Georgia. But taking them all now as Georgians and taking my figures as approximately correct, which I am satisfied they are, you have not been very liberal in bestowing patronage down there. If you want to rally the people and form a party there you ought to deal as justly by them as you do by the Republicans elsewhere. I respectfully state that I do not think you have done so. As my secretary has made the list, those employed in the executive department and in the Secretary of State's office, and I suppose connected with the work there, number 98, or did at the time the Official Register was published, and of the 98 there were 2 charged to Georgia, but neither born there.

Mr. Dawes. One was Fitzsimons.

Mr. Brown. That comes a little lower down. In the department of state there are 367 appointments; from Georgia 4. In the war department 1,507; from Georgia 14. In the navy department 347; from Georgia 1, and he *was* born in Georgia. In the post-office department 488; from

Georgia 9; 6 of them born elsewhere. In the treasury department, not counting laborers, 10,099 appointees; from Georgia 157; and 81 of them born elsewhere. I learn that there are about two thousand here in the treasury department proper, and therefore that is the better rule to apply. On inquiry I learn that under the statute, if it is construed as we think is the plain meaning of it, Georgia would be entitled to 60; and when I inquired I found she had 31. In the department of agriculture there are 73; from Georgia 1, and he was born elsewhere. In the department of the interior 3,924; from Georgia 7; born elsewhere 5; 2 natives. In the department of justice 321; from Georgia 2; born elsewhere 2. In the judicial department 2,008; from Georgia 51; born elsewhere 27. I suppose they locate Fitzsimons there. In the Government printing office 1,136 are employed; from Georgia 1, and that one born elsewhere. In the government of the District of Columbia 472; from Georgia none. My own idea of it is that if you did not have these hundred thousand officers you would have a great deal of difficulty in keeping your party together, and certainly a great deal of difficulty in triumphing with that party.

Mr. Dawes. Your colleague says there are not any Republicans down there. What could we do?

Mr. Brown. You have driven them out of the field by your injustice to them. No, gentlemen, you have not done justice to them. If there is anything in your civil-service reform there ought to be a competitive examination and a Democrat let in once in a while. I have insisted on that before some of the departments, but I find the first inquiry to be, "Is he a Republican?" After that is ascertained he might have a chance at a competitive examination. It does not seem to apply to a colored man; I notice here, it is generally a white Republican, and most of those from Northern States, who gets these benefits. I say you should give some of the offices to the Democrats; but if you will not do that, then, as the Republicans of my State have no representative on this floor but my colleague and myself, I demand justice for them, and that they receive the proportion of the official patronage that Georgia is justly entitled to. If you will not grant this, complain no more of your inability to maintain the Republican party in Georgia.

You gave the colored people the ballot to enhance your power, and you have not dealt generously by them since they have had the ballot. I apprehend at the next election you will scarcely count them solid for the Republican party. I admit that I will be glad to see the day when race lines shall be no longer drawn, when the people of this country shall divide upon principle, upon finance, upon tariffs, upon banks and currency and other such issues as may come before us; but as long as you attempt in the South to displace the more intelligent, the more moral and upright class of people, the property-holders, and put those who are the more idle, the more illiterate, and the more vicious on top, you will always find a solid South.

I know you build hopes now upon Virginia since the Republican senator from Virginia [Mr. Mahone] has abandoned the Democracy and become a Republican. You expect that he will carry with him the readjusters of Virginia. Doubtless many of them will go; but permit me to predict that there is many an honest old Democrat in the mountains of Virginia who, when he separated from the regular Democratic party upon the debt-paying question, did not feel that he had started over into the Republican camp, and when he finds that the senator from Virginia [Mr. Mahone] is leading him there and has joined the Republicans himself, and that out of from one to two hundred votes that he has cast in this body he has cast every one with you and not one with the Democrats, the hard-fisted old Democrat

there will begin to inquire, "How is this? My leader has abandoned the principles we started in upon, as I understood them; I did not start into the Republican camp, and I am not going there." I understand the policy and I have a right to comment upon it, because it has been announced here that you throw this support to the senator from Virginia and his friends with a view of uniting the elements there that can give the Republican party the power, and it has been further very strongly intimated to us that this work was to go on into the other Southern States.

In my State we have had divisions among the Democrats. In the seventh and ninth congressional districts, the mountain portion and the stronghold of the Democracy, a large wing of the Democrats revolted against what they considered corruption or trickery in the party caucuses; independent candidates came out, gentlemen of ability and worth, and led them against the regular nominees. What was the result? The Republicans fell in with the independents, as is usual in such a case, and these gentlemen were elected and they have served ably and well here. But permit me to tell you now in behalf of those independent Democrats at home they did not start into your camp when they started to follow the independent candidates, and they are not going there. It has been said that the independent leaders from my State have been very kindly received in very high quarters here, and the support of the Government has probably been tendered to them, or at least intimations of that character given, for them to lead down there and overturn the regular Democracy. If that has been so, for their benefit you had better keep it a secret, for when it is known by the Democrats in the mountains of Georgia that they are in league with the Republican party or that there is any purpose to lead them into it, the Democrats will drop these independent leaders and they will have no chance for re-election. But I will not do those leaders the injustice to believe that these reports are true or that they would attempt to overturn the Democratic party and build up the Republican party.

As long as the independents can lead the independent wing of the Democracy and you are willing to tie on as the tail to the kite, they can be elected as independents; but when the effort is to carry them over into the Republican ranks or to defeat the Democratic party, they will not go. Now and then an ambitious man who wants office may go; now and then an aspiring young man may go; but whenever it is understood that your purpose is to reconstruct the South again and to place the lower strata in intelligence of our people above the higher, in other words, to place the ignorant and vice—for there is generally more vice among the ignorant—above the intelligent, the wise, and the property-holders, and when that bugle-note is sounded down there, you will find that the young men will not feel flattered with their associates when they go over into your camp; you will simply drive our people back to solidity again.

My honorable friend from Connecticut [Mr. Hawley] turned a fine period or two on that subject the other day, and I should like to refer to it. He speaks of a senator who said about the commencement of the last presidential campaign, "We come to you with 138 votes, and we ask you to name us a man who can bring us 47 more;" and he adds:

"That short paragraph went from hamlet to hamlet and from Maine to California; it was rung nightly, travelling with the curfew bell from Maine to California, and its full meaning was comprehended."

I admit that the very fact that the South was spoken of as solid gave the Republicans a rallying cry for a solid North. Suppose, however, a Republican had gotten up, as I have no doubt many a one did in the Northern States in the campaign, and said, "Here are fourteen States solid for the Republican party, nobody doubts that they will vote Republican, to wit, Iowa,

Kansas, Massachusetts, Michigan, Nebraska, New Hampshire, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin, Illinois, Colorado, and Maine; here we present you 149 votes. Name a man who can bring 36 from the doubtful States, and we can elect him." That is simply analogous to the other case.

You have never known a political division yet where there were not certain States that were solid on each side. The South under the old state of things was generally Democratic. Who doubted before the war that Massachusetts would vote the Whig ticket under the old division? Who questioned that Kentucky would go Whig when Henry Clay led it? An intelligent people always know before the campaign is opened that there are certain States that will be solid on each side, and that the contest is to be for the doubtful States.

That is what the solid South means. As long as you have a majority of States North or of States with the help of a few doubtful States that can put you in the majority, and you seek to use that majority to overturn our institutions, and put the ignorance and vice of the South in control over the intelligence and virtue and property of the South, so long as we believe your solid North means that, you drive us to be solid; we cannot disband with self-respect; we cannot do it with safety. Put yourselves in our condition and would you do it? You could not afford to do it. You would not do it in Massachusetts; you would do it in no State in this Union. Whenever you are no longer solid at the North and we hear no more about republicanizing certain States, no matter what the means may be, we shall soon cease to be solid. Present us issues of the character I mentioned awhile ago, tariff, banks, etc., and let those be the only questions, and we will divide as soon as you will, and without regard to color lines. But it seems to be the policy without any regard to what will be the consequences to say that you must republicanize those States, whether they desire to be Republican or not, and to do that you must have every ignorant colored man vote that you would not permit to vote in your States; and then if we by kind treatment or any of the appliances that you use at home vote them, and you do not carry the election, there is a great complaint over it.

Let me say another thing in connection with the colored men. You made a mistake, and I apprehend you see it, so far as party power was concerned when you gave them the ballot. Taking the census of 1870 and counting the then ratio of representation, the colored people of the United States represented thirty-six members in Congress and thirty-six members in the electoral college. With that stricken out you would have had an easy triumph. Add that to the power of the South and you do not have an easy one. Count the same vote now; take the census of 1880. We do not yet know what the ratio of representation will be, but count it at three hundred and seven, and then there is within a fraction of forty representatives of the colored race, nearly all from the South. You made a mistake, which I apprehend you would not make again if you could recall it, when you gave us this additional power there; and having made it possibly you have regretted it; but you cannot retrieve it by attempting to force into power the elements of the character that I have mentioned, which you exclude from the ballot-box at home over the elements in our State such as control matters in yours.

I have already referred to the remarks of the senator from Connecticut [Mr. Hawley] that the solid South pronounced the fifteenth amendment a failure. We do not. Colored suffrage is not only established, but with us it shall remain established. You gave it to us against our will at the time, at a great risk to society, but we have struggled through the embarrassment

and reached a point where the two races are acting harmoniously, kindly, and in friendship together. You have given us about forty members of Congress that we would not have had, and about forty members of the electoral college that we would not have had, and you can never take them from us. It takes three-fourths on a constitutional amendment to get rid of that, and there is not a Southern State that will ever agree to it. We have found that we can work in harmony and in fraternal relations with the colored race who were raised with and by us. They have found that we are their best friends. We intend to work in harmony with them, and we intend to hold the power that you in an unfortunate moment for your party gave us, and we will never relinquish it.

A good deal however has been said about a fair count as well as a free ballot. I do not deny that you count fair in Massachusetts and elsewhere in New England. I do deny that you have a free ballot there. I have commented on Massachusetts. A word in reference to Connecticut. If the Senator from Rhode Island [Mr. Anthony] makes a true statement in reference to it, and I quote from him in regard to Connecticut, a man twenty-one years of age and upward must be able to read and must be of good moral character before he can vote. The senator from Massachusetts [Mr. Dawes] says that does not exclude anybody. I do not know; I believe the Connecticut people are very good people. I spent some time with them in my college days; I was treated kindly by them; I have no unkind expression to use in reference to them, but I presume it is a misfortune of every community, no matter how steady may be the habits of the land, to have some immoral people. I have applied at the Census Office. I could not get the illiteracy of Connecticut or of Massachusetts in the case of persons over twenty-one years of age, for it is not yet ready, as the Superintendent tells me, but I take it for granted that there is a considerable number of men in Connecticut who cannot read, and there are at least a few immoral men there. They are excluded by the laws of Connecticut from the ballot. Therefore there is not a free ballot; in other words, there is not universal suffrage in Connecticut; there is not manhood suffrage there. In Rhode Island the same is true, as is admitted by all. There is a property qualification there for naturalized citizens. The senator from Rhode Island [Mr. Anthony] stated that there are two thousand excluded from the polls there. Then it is not a free ballot when even two thousand citizens are driven away from the polls; it is not a free ballot when a hundred thousand, if that be the number in Massachusetts, are driven away from the polls, or eighteen thousand if that be the number.

In reference to that good old Granite State of New Hampshire the senator from Rhode Island [Mr. Anthony] says that both parties resisted the repeal of the Catholic test there until 1877. No man there until that time could hold the office of governor of the State or member of the Legislature unless he professed the Protestant religion. In other words, a Catholic, no matter how intelligent he might be, could not hold either of those high offices because of his religious faith. We have nothing of that in the South. Therefore, I say we have a freer ballot there than you have in New England, and we have as fair a count there as you have. Though there may have been some trouble about a fair count at an earlier period for the reasons that I have mentioned, it is not so now.

The honorable senator from Pennsylvania [Mr. Cameron] said the other day in his speech:

"For all true men who uphold the laws, the Republican party has confidence, respect, and co-operation."

Again he says:

"We have no prejudices on account of old conflicts. Whoever is right at the present time is our friend, and we are his."

I say that is a noble sentiment. He does not go back then to the period when there may have been any difficulty about a free ballot or any difficulty about a fair count. He inquires what is it now, and he has to do that to maintain his position in reference to the Republican senator from Virginia. We meet him there, and we have a right to claim his confidence and respect. I claim it for the Democracy of Georgia, because we stand right on that platform to-day; I claim it for myself, and I claim the patronage of the Government for my State on that line.

But the honorable senator from Connecticut [Mr. Hawley] used another expression that might possibly exclude me from these benefits. He used this language:

"When he,"—speaking of a Southern senator—"takes his seat *on this side* and tells you that he does not care for your caucus, that what you do in there is a matter of total indifference to him, I shake hands with him, Mahone or anybody else; and the more of them the more welcome."

The reason why I cannot claim this good promise, then, of the senator from Pennsylvania is that, while I stand for a free ballot and a fair count and a faithful execution of the reconstruction measures and the constitutional amendments, and will fight with you there to the end of the chapter, I did not comply with the other prerequisite—I did not take my seat on that side. Gentlemen, I was not elected to go on that side; I deceived nobody in my campaign; I took the advanced position on the night before my election, as my colleague has told you; I laid down in the broadest terms that I would stand for a free ballot and a fair count, that I would stand for doing justice to the colored race, that I would recommend some of them for office, and that I was for the faithful execution of the thirteenth, fourteenth and fifteenth amendments. I am entitled, then, to the promise of the senator from Pennsylvania if I had not come under the exclusion of the senator from Connecticut, whose requisition is that the senator shall take his seat on that side.

But you have not always had a fair count, I think; at least, if you have, the majority has not ruled under that count. In 1876 Mr. Tilden carried a popular vote of over a quarter of a million, and if I know anything I know that he honestly carried the State of Florida, for I was there and saw what was done, and he was elected fairly, but he did not get counted in. I insist that it was not a fair count, and the Democrats, a majority of them, did not make it either. No, gentlemen, at your door lies the charge that you do not in your own States maintain a free ballot, and you have not in your practices maintained a fair count.

A word in reference to the strange state of things in Virginia. You have seized, and as a party measure I have nothing to say about it, what you consider the readjuster element there, and you are seeking to blend it with the Republican element and carry that State. I am not going to discuss the repudiation question there at all. I believe all admit that there is a difference between the funders and readjusters, as they are called, as to \$12,000,000 of the debt; but I simply want to say this, that you may drive the people of Virginia into what you may call an error that they do not want to commit, and that you would not want to see them commit. You seek to take advantage of the division on the debt question to carry one portion of the Democracy into the Republican camp. The Democracy of Virginia proper, the property-holders, the educated people, the church-going people, a large majority of them—for there are some on all sides I admit, and I do not make any attack on anybody—but what you usually call the intelligent or ruling class of people

as you would say in the other States, have stood manfully up for maintaining the credit of the old State ; but they will understand you now, whether correctly or not, as tendering this issue to them : You say, " We intend to take hold of this readjuster element and put the negroes and readjusters and the few white Republicans who are there in power." They may reach the point where the supremacy of intelligence, education, virtue and property for the preservation of society may become more important to the Democracy of Virginia than the payment of her debt to your Northern capitalists ; and they may find it necessary to drop their internal strifes, and, if you will have it so, turn overboard this \$12,000,000 of the public debt, and, if necessary to their reunion and the preservation of their society, tumble \$12,000,000 more over with it, or let the whole of it go rather than have ruin brought upon the State by putting her under the control of a class of people, a large majority of whom are such as you will not admit to the ballot-box in your own States.

I do not know what the proud people of that grand and glorious old Commonwealth will do, that old mother of States and statesmen ; I venerate her name and I glory in her history, for my ancestry on both sides lived upon her soil ; but I can see that you may drive the virtue and intelligence of that State to the point that they will tumble the whole debt overboard, if necessary, rather than submit to the ruin of society that you purpose to fasten upon them ; and when they do it, you cannot reasonably condemn them. They have been able thus far to fight successfully the readjusters ; they may not be able to fight successfully the readjusters with the patronage of the Senate of the United States and the patronage of the Federal Government. In other words, they may not be able to fight the readjusters and the Federal Government ; when they find they are not, I presume they will take care of their institutions by letting the debt go if it be necessary. Will you condemn them when they do it ? Will you cry " repudiation " if you drive them to repudiate to protect their society ?

I have already said that the independent Democrats of the South will not dare unite with you, their leaders I mean will not dare do it, for their followers, or the mass of them, who are Democrats, will not go with them and will not support them. And now let me say a few words more in conclusion, for I have another single point.

At the end of the war, as I have already stated, we were a conquered people ; we had to submit to the terms dictated by the conqueror ; and we had to take whatever you put upon us ; and it was very hard. We have atoned for our treason, as you term it, and we have been admitted back to these halls by Senators and Representatives, and we have come to stay here and you cannot reconstruct us again. The condition is very different from what it was then. Now prosperity has been restored to the country. Your Northern capitalists did not have money investments there in that day ; they have poured in there recently by the millions their money. We open a broad field for investment ; we have unbounded resources ; we have a climate not surpassed on the face of the earth ; our cotton crop alone this year, if it reaches 6,000,000 bales, as we suppose it will, will pour into the South \$300,000,000 in gold ; our mineral wealth is not probably surpassed anywhere on the globe—I do not speak so much of the precious metals as I do of the coal and the iron and the minerals that make a people great—our commercial importance is every day increasing ; our cities are growing ; our railroads have become organized, they are penetrating every portion of our country.

Your Northern capital is coming down there and being invested, and whatever may have been our errors in the past upon that subject we welcome

you now; come among us; we extend to you a cordial greeting; we invite you to our houses, to our parties, to our bosoms, where you come intending to make good citizens, and we share with you this splendid domain that is not anywhere surpassed on the face of the globe. The capacities for the productions of the South in future are limitless. Would you believe it, that, according to the last census, the whole acreage of the cotton crop in the South for the past year is a little over half and less than two-thirds of the acreage of the State of Georgia? In other words, you might transfer every acre of cotton last year, if you could put it all together, to my own State, and it would cover a little more than one-half her territory. The capacity, then, for the production of this great staple is simply boundless. Why, take Texas alone, an empire of territory, larger than France, larger than the Empire of Germany, larger than the Empire of Austro-Hungary. We have merely skimmed the surface. Texas alone can produce more cotton than the world will need the next fifty years, and as the necessities increase, the production can be expanded indefinitely. Not only that, we are waging up a strong rivalry with you in manufacturing there. The number of pounds of cotton manufactured in the Southern States from 1870 to 1880 more than doubled itself. We are constantly putting up new mills and new machinery, and we are going to manufacture large quantities of it, and your Northern capital finds it its interest to come there, and we invite you.

Now permit me to tell you frankly that this is not 1867 and 1868, and when you make this issue of radicalizing those States by overturning their great interests, you will not find your Northern capital flow so freely into your political coffers to carry your elections. They will say to you, "Nay, you must stop this; you cannot disorganize society there; you cannot ruin the interests of that country without ruining our capital;" and they will not go with you; and let me warn you now that if you are not careful you will lose a great many more votes from the Republican party in the next election in the Northern States than you will carry of Democrats in the Southern States. The war is over; you buried "the bloody shirt" when you made the Republican Senator from Virginia your leader, he being a Confederate brigadier, and with that set before the people of the United States they will not enter with you again into another crusade to establish a power in the South that you failed to do when you gave suffrage to the negroes. You will have to recognize our prosperity; we have a better country than you have, and though the blight of slavery may have been upon it according to your estimate; though it was our misfortune, which is removed, it will blight there no more; we intend to go forward and develop and grow up; we intend to try to become your equals in wealth, in intelligence, and then you will respect us.

I have thanked you before and I thank you again for the efforts you have made, the liberality you have shown from New England in coming up and agreeing with us to do your part toward the education of a class that, by the act of war, was turned loose upon us and carried to the polls when they were not able to take care of themselves. I say you did well there; we welcomed you. I have given you credit where I thought you deserved it, and I think you do in that regard; but you will find it is a great mistake if you think the Democrats in the South who have followed the independents are going to follow them to your camp; and I think you will find yourselves mistaken in the North when you undertake to upheave our society again and subvert it for purposes of political power. I do not believe your people, and especially the large numbers of them who have investments in our section, will sustain you in it.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, JANUARY 18, 1882, ON THE FOLLOWING RESOLUTION OFFERED BY HIM:

Resolved, That it is inexpedient and unwise to contract the currency by the withdrawal from circulation of what are known as silver certificates, or to discontinue or further restrict the coinage of silver.

Resolved further, That gold and silver coin, based upon a proper ratio of equivalence between the two metals, and issues of paper, predicated upon and convertible into coin on demand, constitute the proper circulating medium of this country.

Mr. Brown said :

Mr. President: In the formation of society it was found that no one man could make for himself all the necessaries and conveniences of life. It was also discovered that by devoting his attention to a particular pursuit he soon became more proficient in that, and was able to do more for the interests of society by availing himself of the skill he had acquired in the production of a single article. The wants of men engaging in different pursuits soon suggested the necessity of bartering the articles produced by one for those produced by others. The farmer made his own bread and other provisions, but he needed the aid of the mechanic in building his house. For a covering for his head he looked to the hatter. The hatter needed the provisions made by the farmer, and they naturally proposed an exchange. The carpenter also needed provisions, and he was willing to exchange the productions of his labor for the products of the farmer's labor.

But in this state of things it was soon found that the quantity of provisions needed by the hatter was not always a just equivalent for the hat he manufactured for the farmer, and the house needed by the farmer was probably more than an equivalent for the provisions needed by the carpenter. The idea then suggested itself that all should agree upon some article or thing which should represent values, and that it should be made the standard by which the value of the productions of each should be determined. Just as a yard-stick was agreed on as a proper instrument for measuring cloth, when the length of the stick was determined it was easy by applying it to the bolt of cloth to ascertain how many yards the bolt contained; or when the bushel measure was agreed upon by all, it was easy, by the proper use of this measure, to determine how much wheat or how much corn was in the farmer's crop, or in the portion of it offered by him for sale. So when the standard of values was agreed upon by all, it was soon found to be no difficult task to determine, judged by that standard, how much of the farmer's provisions the carpenter should have for the house built by him, and how many hats the farmer should receive for the provisions supplied to the hatter.

The next difficulty, however, was to agree upon this common commodity which should represent values and become the medium of exchange. In the earlier periods, among the less enlightened nations, and even at this day among savage tribes, certain shells of the ocean of a particular character were made the representatives of values, or the medium of exchange. In certain cases copper was agreed on as a proper medium. But after a thorough consideration some thousands of years ago, the more advanced and civilized nations of the earth agreed upon two metals usually known as the precious metals as the proper material out of which should be made the articles to represent values and be used as money. Those metals were gold and silver. They were well adapted to the use intended, as they are easily moulded into the proper shape and upon them can be indelibly impressed the stamp of the government authority, which gives to each a specific value as

compared with other articles of commerce by which we test the value of such articles. Again, these metals seem to have been intended by the Creator for the uses to which they have been applied, as they are found in larger or smaller quantities in every grand division of the globe, and they are nowhere found in such quantities as to exceed the legitimate demands of the world for a proper circulating medium. Divest them of their value as a circulating medium, or as a standard of the values of other articles, and they would be less useful to mankind and less valuable than iron, which is used in making the tools and implements of every trade and calling, in the construction of our railroads, the supply of the immense motive power used by land and water, the building of our houses, the construction of our ships at sea, and the clothing of our men of war upon the ocean. In point of intrinsic value to mankind there would be no comparison between iron on the one hand and gold and silver on the other, were it not that the two last mentioned metals have for thousands of years been used by common consent as a medium of exchange. The value of gold or silver is not, therefore, found in its intrinsic worth, but it is found in the laws of the different nations and the laws of trade; and it is worth more or less as the nations stamp their signets of value upon it for a larger or smaller amount.

As stated by an able French writer, M. de Laveleye, the value of the money metals is controlled by the continued and obligatory absorption of them at the mints at the rates fixed by law. If the employment of them for coinage should cease, the value of the metal would fall to a half, or a third, or further still. The state creates the greater part of the value, both of gold and of silver, for it creates a sure market for them. It is admitted that in the case of monopoly it is the demand which chiefly determines price. Now the demand which rules the market of the precious metals is that which acts at the mint. Minister Gaudin said, in the year 1803, the market value of the precious metals is the mint price. The state, therefore, which creates the demand can fix the price.

The same writer, speaking of the success of France in maintaining the ratio of equivalence established between the two metals for so long a period, says:

"Experience has demonstrated that a single country, provided it has extended territory and a large stock of coin, can in practice maintain the ratio of equivalence between silver and gold which its law has established."

And in the international conference of 1881, Lord Reay, representing British India, used this expression:

"The surplus in the French budgets and the brilliant conversion of a portion of their debt just effected by the United States establish in a most remarkable manner that their marvellous financial condition is strong enough to permit of their making the experiment of bimetallism."

Lord Reay also admits that while gold has been adopted as the standard in Great Britain, British India adheres to silver monometallism. More than three-fourths of the whole population of the nations of the earth use silver, or silver and gold as the standard; and in Great Britain and Germany, where silver is demonetized, it cannot be kept out of circulation, but still retains practically almost its original power as money. The French Government in 1803, in fixing the ratio of equivalence between the two metals at 1 in gold to 15 1-2 in silver, was merely acting, as a distinguished writer says, in conformity with historical precedents, and was not violating economic laws.

In the monetary conference in 1878 M. Say was able to affirm that, during sixty-six years the French system had stood steadfast under circumstances the most extraordinary—wars, invasions, revolutions, crises of every kind,

and even under the deluge of gold after 1850, which it was believed would bring about its ruin. The French law upon this subject could not have been far wrong in establishing the relative value of the two metals. If it had been, France as a great commercial nation, surrounded by great commercial powers, could not for sixty-six years have maintained this difference under the trying circumstances in which she was placed without suffering great inconvenience growing out of the want of proper equilibrium.

But there came a time when the English Government, whose colonies, I believe, produce a greater proportion of gold than of silver, discarded as a medium of exchange the silver which for centuries, by the common consent of the civilized world, had been used for that purpose. Germany, another great European power, at a later period was induced to follow the lead of Great Britain in the demonetization of silver. Other small powers followed, and the Congress of the United States, on the 18th of February, 1873, passed a statute which authorized the coinage of the trade-dollar of 420 grains of standard silver, and not the old dollar of our fathers of 412 1-2 grains. The act also provided for other smaller silver coins, and declared that said coins should be a legal tender in payment of any debt not exceeding \$5, in any one payment. And the codifiers of our laws, at a later period, gave this statute a broader latitude by declaring in the code that the silver coins of the United States shall be a legal tender at their nominal value for any amount not exceeding \$5 in any one payment.

This embraced not only the trade-dollar of 420 grains authorized by the act of 1873 and the smaller coins, but it also embraced the old dollar of 412 1-2 grains, which had from an early period in the Government been a legal tender. Thus did we follow Great Britain and Germany in the demonetization of silver. But it is believed that very few members of either House of Congress understood the scope and intent of the act of 1873, and the people generally felt that they had been outraged when the act was made public and its provisions understood. And their indignation was the greater when they learned that the code had been made broad enough to cover all silver coins of all the denominations coined in the United States, no matter at what period they may have been issued from the mint.

We were then told by the representatives of the money power of the country that it had become necessary to demonetize silver, as the quantity was becoming so great as to destroy the proper equilibrium between it and gold, and to render it unsuited as a medium of exchange. And to sustain this theory it was affirmed that the same quantity of silver which had previously been used in coining the legal-tender silver dollar, and which is now used, was as a legal tender more than the equivalent in value of the same number of grains of silver. In other words, that the silver out of which the Government of the United States had coined a silver dollar, stamped with the authority of the Government as a legal tender, was not worth a legal dollar—that this result had been produced by the overproduction of silver.

Now, I deny the correctness of this position, and shall attempt to show that the argument was founded in a fallacy. As already stated, the commercial value given to either gold or silver is not its intrinsic value as a metal, but the value at which the Government estimates it as a medium of exchange, the value which, by its authority, the Government stamps upon it as money. Now, why was it at that time, and why is it now, that 412½ grains of the standard silver would not and will not in the market bring a legal dollar? I maintain that it is not on account of overproduction of silver or of the fact that the old ratio between silver and gold has been destroyed, but that it grew out of the fact that the British Government and the German Government had demonetized silver as a legal circulating medium.

This very naturally reduced in the market the value of silver as a metal. The value is reduced as compared with gold, not because the equilibrium upon the old ratio has been, in fact, destroyed by the overproduction of silver, but because the great powers mentioned retained gold as a medium of exchange, giving it as a metal the fictitious value which it has on account of its being stamped by authority of the Government as money, while that fictitious value was withdrawn from silver, and it was left, so far as its legal status was concerned, to stand upon its natural value as a commodity, or as other metals stand. And but for the fact that the larger portion of the world continued to use it as money it would have depreciated to a much greater extent. There had, therefore, on account of the action of the two great powers above mentioned, been a reduction of the value of silver in the market. When the United States demonetized it this produced a still greater reduction in its value. With all this injustice done to silver as a circulating medium, it maintained a high standard of value, much above what could have been expected in the face of the unfriendly legislation of the great powers above mentioned.

Now let us reverse the picture for a moment. Suppose at the time Great Britain demonetized silver, that Government had retained silver as money, or as a circulating medium, and had demonetized gold; and Germany had followed suit; and the United States had then in turn reduced its power as a legal tender to debts not exceeding five dollars, who can doubt that with this injustice done gold it would have fallen as much below silver in the market, relatively, as silver under the like unfriendly legislation has fallen below gold?

But I may be told that the act of Congress of February 28, 1878, remonetized silver, and authorized the secretary of the treasury to have coined silver dollars of 412½ grains of standard silver, which were again declared to be a legal tender, and that notwithstanding this remonetization of silver, the silver bullion still sells in the market for a lower price than the same quantity of silver brings when coined into a legal-tender dollar. This may be true, but the cause that has produced the decline in the silver has not yet been removed; otherwise it would not be true. The Government only permits the coinage of from two to four millions of silver dollars each month; in practice, about two million. Let the Congress of the United States pass an act making it the duty of our mints to coin all the silver that is produced in this country into legal tender, with *full debt-paying and purchasing capacity*, and you will see and hear in the United States no more of the destruction of the equilibrium as heretofore established between gold and silver. Of course, silver has not been able to stand this unfriendly legislation without depreciation, and gold certainly could have stood it no better if the assault had been made upon that metal.

But the important question after all probably is, what shall be the ratio of equivalence? It is of course very desirable that all the commercial nations should unite in fixing a standard, and it is believed that the French standard is about the true one. And France would be ready to stand with the United States upon that ratio.

Notwithstanding the fact that both Germany and Great Britain decline to unite on both gold and silver as a circulating medium, there is no insurmountable difficulty in maintaining both metals as legal money by the other commercial nations. This fact was recognized by the representatives of the different powers, who advocated both gold and silver as money in the conference of 1881, when the draught of a resolution for an international treaty was presented by a distinguished French representative, M. Cernuschi. It is proposed that the members of the union shall admit gold and silver to mint-

age without any limitation of quantity, and shall adopt the ratio of 1 to 15½ between the weight of pure metal contained in the monetary unit in gold and the weight of pure metal contained in the same unit in silver.

The position frequently taken that there is so much silver now produced as to make it unsafe to admit its universal coinage as a medium of exchange unless all the commercial powers unite can neither be maintained in sound theory nor in practice. Of course such union is very desirable. It has been well remarked that every new accession of gold or silver in fostering trade opens a new field of employment for itself, and prevents its own depreciation.

I am aware that it was predicted when we remonetized silver in the United States and authorized the coinage of from two to four millions of dollars per month of that metal that the silver coin would become so plentiful as compared with gold that other nations would import their silver to the United States for sale, and that we would have to pay balances abroad in gold; that our gold, the more valuable article, would be purchased by silver, the less valuable article, from other countries, and exported from this country, leaving the United States with a local silver circulation, while Great Britain and Germany maintained monometallism in gold, which would soon compel other great commercial countries to follow suit.

It was said that silver was so plentiful that 1 ounce of standard gold was worth more than 16 ounces of standard silver; or that 412½ grains of standard silver contained in the legal-tender silver dollar was not worth as much as the gold dollar of 25.8 grains; that the ratio of 1 in gold to 16 in silver was not right, but that it should be 1 in gold to 17 or 18 in silver. In other words, we should put more standard silver in a legal-tender silver dollar than it now contains; and, to give emphasis to this theory, banks have thrown out the trade-dollar of 420 grains (which, compared with the coins of the world, is intrinsically worth more than a dollar in gold), and will only receive it at a heavy discount. This is done with the view, no doubt, of depreciating silver in the market and of deterring the Congress and the people of the United States from giving it its proper position as a circulating medium.

The secretary of the treasury in his last annual report has thought proper to throw the weight of his position against silver coin in the following language:

"A continuance of the monthly addition to our silver coinage will soon leave us no choice but that of exclusive silver coinage, and tend to reduce us to a place in the commercial world among the minor and less civilized nations. It may be assumed that a people as enterprising and progressive as that of the United States, holding a leading position among the nations, will not consent to a total abandonment of the use of gold as one of the metals to be employed as money; and we cannot consent to be placed in the awkward position of paying for all that we buy abroad upon a gold standard and selling all that we have to sell upon a silver standard. It is therefore recommended that the provision for the coinage of a fixed amount each month be repealed, and the secretary be authorized to coin only so much as will be necessary to supply the demand."

Again he says:

"It is believed that the amount in circulation will be steadily increased, but not so fast as to require for some months or perhaps years any addition to the amount already coined."

Here the honorable secretary in effect reiterates the warning given us in 1878 when we remonetized silver, that we must stop the coinage of silver or the gold would all flow from our borders and the silver come to our country and take its place, and that we should be reduced to a place in the commer-

cial world among the minor or less civilized nations. Now, what pretext is there in fact or in practice to sustain this assumption on the part of the secretary of the treasury? Absolutely none. The practical results have been a sufficient contradiction of this theory, and that should put such assumptions at rest in future. We have adopted a ratio of equivalence which puts more silver or less gold in a dollar than the usual standards of the world, ours being 16 to 1, while most commercial nations adopt 15 1-2 to 1, and Germany in all she now coins, 14. While this state of things lasts the practical workings of the system will continue to be the sufficient refutation of the position of the honorable secretary. Instead of a flow of gold from the United States and a flow of silver to this country, the very reverse will be true.

Why should the people of this vast continent, including the United States, Mexico, and all the South American States, who use both gold and silver as legal currency, and a large majority of the people of Europe, who also use the double standard, and the immense number of the population of Asia, who use a silver currency, be unable to maintain silver in the position it has occupied for thousands of years as money or as a legal circulating medium?

Certainly the United States and Mexico (which taken together produce almost half of the precious metals) should not be among the first to consent to the depreciation of either of these metals.

In a late work entitled *The Silver Country, or the Great Southwest*, by Alexander D. Anderson, I find the following statement as to the production of the precious metals. In referring to the country known as New Spain, which embraces Mexico and that portion of the present territory of the United States which formerly belonged to Spain, he says:

"We have seen in comparing its precious metals with those of the world for the same periods that the Southwest from 1521 to 1876 produced over one-third of the combined products of silver and gold of the whole world; that its silver product was from 1521 to 1804 a trifle less than half of that of the world; from 1804 to 1848 over half of that of the world; from 1848 to 1868 half of that of the world; from 1868 to 1876 but a trifle less than two-thirds of that of the world; and for 1875, the last year of the whole period, three-fourths of that of the world."

If, then, at the present time, or during the year 1875, Mexico and the United States produced three-fourths of all the silver of the world and nearly half of its gold, it seems to me it cannot be seriously contended that wise statesmanship would prompt either Government to give the advantage to Great Britain and Germany or to any other power by yielding for silver the true position which it is entitled to occupy as a medium of exchange in the commercial transactions of the world.

When we produce more gold than any other power on earth, and when we fix the ratio between the two metals higher than the other leading commercial powers fix it, how is the secretary to maintain his assertion that—

"A maintenance of the monthly addition to our silver coinage will soon leave us no choice but that of an exclusive silver coinage, and tend to reduce us to a place in the commercial world among the minor or less civilized nations."

While I do not impugn motives I must say this assertion is sustained neither by the facts, by sound theory, nor by practical experience.

Let us contrast this opinion of the secretary with that of other distinguished financiers in other countries.

In the late monetary conference, of 1881, Mr. Cernuschi, a distinguished delegate from France, says:

"If, however, we were doomed to monometallism, if it were necessary to choose one of the two metals, the choice could not be doubtful. Silver would

have to be chosen. The existing mass of gold is too small; gold is too difficult to subdivide ever to become universal money."

Again he says:

"If it is real and sincere bimetallism which must be attained, it is practicable with four states, with three, or even with two. Yes, the bimetallic union would be supreme in the world even if composed only of the United States and France."

Now let us quote from a distinguished advocate of the gold standard in the late conference, and see whether he agrees with the secretary.

Mr. Broach, the delegate from Norway, a country that has adopted gold monometallism, made the following important statement during the discussion:

"In short, universal bimetallism is not possible, for in Asia, India and China are silver monometallic, and in Europe two of the chief powers are resolved on remaining gold monometallic."

Again, he says:

"The United States might put up with the system, because, in the capacity of large exporters of merchandise payable in bills on London, they are sure of always keeping large quantities of gold. They could do so, also, because they would not be exposed to seeing silver flow to them. They are too great producers of silver for Europe to send them that metal, which they furnish, on the contrary, to Europe. The time is approaching, moreover, when the United States, sufficiently provided with coin, will no longer have to ask Europe for it, and when in payment of their consignments of breadstuffs and raw materials to the old continent they will have to demand in exchange a greater and greater quantity of manufactured articles, or of European securities. But on either hypothesis they will be no resource for Europe for the sale of its depreciated silver."

Here is the opinion of a distinguished representative of Norway, a monometallic gold state, sustaining that of M. Cernuschi, and Lord Reay, representing British India (already quoted), that the United States in a union with France alone can suffer no serious detriment by adopting and practicing bimetallism. Then these distinguished financiers, one representing monometallism in silver, one representing monometallism in gold, and one bimetallism, all differ with the honorable secretary of the treasury as to the ability of the United States to maintain without serious difficulty the bimetallic standard of both gold and silver.

Not only do these distinguished representatives of the three different systems of metallic currency discard the theory of the secretary of the treasury, but, what is still more important and conclusive, in practice the facts are in the very teeth of his theory, and show its unsoundness beyond controversy. What are the practical facts?

I quote from the quarterly report of the chief of the bureau of statistics of the treasury department of the United States for the three months ending June 30, 1881, which also contains other statistics relative to the trade and industries of the United States. Among those other statistics, I find on page 444 that there were imported into the United States gold and silver coin and bullion during the year ending June 30, 1881, a total of \$110,575,497. Of this amount there was \$100,031,259 in gold, and \$10,544,238 in silver, making the importation of gold during the last fiscal year within a fraction of \$10 for every \$1 of silver imported. Now, let us look a moment at the exports. During the same period there were exported from the United States in gold, coin, bars, and bullion, foreign and domestic, a total of \$2,565,132; and of silver \$16,811,715 were exported. Thus we see in its practical working that there was in one year nearly ten times as much gold as silver imported, and

nearly seven times as much silver as gold exported, after nearly \$100,000,000 in silver had been coined under the act of 1878.

Possibly it may be said the year 1881 was an exception to the common rule. Then let us see how the matter stood the previous year, ending June the 30th, 1880. The total importation of gold that year amounted to \$80,758,396. The total importation of silver was \$12,275,914, showing that we imported over six and a half times as much gold as silver.

How did the exports stand the same year? The domestic and foreign exports of gold amounted to \$3,639,025, and the exports of silver, domestic and foreign, amounted to \$12,834,904. That is, we exported over three and a half times as much silver as gold, and we imported over six and a half times as much gold as silver during the year ending June 30, 1880. And during the year ending June 30, 1881, the importation of gold, as already stated, amounted to nearly ten times as much as the importation of silver, and the exportation of silver to about seven times as much as the exportation of gold. This shows that under our present system of coinage the drain of gold to the United States, and the drain of silver from the United States increase largely from year to year. And if this state of things continues for a few years longer on the same basis, and in the same proportions as in the last two years, we shall have, in the teeth of the theory of the secretary of the treasury, an almost exclusively gold currency, while foreign powers will have nearly all our silver. And the reason already given is obvious. We estimate 1 ounce of gold as the equivalent of 16 ounces of silver, while the Latin Union and other foreign nations estimate 1 ounce of gold as being worth only 15½ ounces of silver. Hence the drain of gold to our country, where the highest estimate is put upon it, and the drain of silver to other countries, where it is estimated higher than it is in the United States. The theory of the secretary looks well upon paper, but it cannot for a moment stand in the light of the facts, nor bear the test of experience, nor endure the ordeal of practice.

The fact that the ratio in France and most other bimetallic nations is 15½ to 1 while ours is 16 to 1, shows that we have discriminated against silver, putting more silver or less gold in the dollar than the just ratio. And this is demonstrated in practice, as the flow of gold is 10 for 1 to the United States and the flow of silver nearly 7 for 1 from the United States. Then, those who maintain that the silver dollar as compared with the gold dollar does not contain enough grains of silver are really in error, as is clearly shown in practice, which is the best test of the correctness of a theory. One practical fact is worth half a dozen theories that will not work in practice. If, then, we would do full justice to our great silver-mining interests in this country, and would place silver and gold on the proper ratio existing in most parts of the world, we should put more gold into the standard gold dollar than we now do if we maintain the standard silver dollar at 412½ grains. I repeat, it is not true in practice, and the theory that asserts it is therefore erroneous, that 412½ grains of standard silver in this country is intrinsically worth less than the legal-tender gold dollar. We have not fixed the ratio as to silver too low, but if we have erred at all we have fixed it too high, and if the trade-dollar of 420 grains of standard silver, or 420 grains of standard silver in any other shape, will sell in our market for less than a legal-tender dollar, it grows out of the fact that we have by legislation discriminated against silver and in favor of gold, and thereby depreciated the price in the market. A test which, under like unfavorable legislation, gold could endure no better than silver has.

Neither the people of the United States nor the other great powers of Europe look at present with favor upon the action of Great Britain and Germany in demonetizing silver; and if the Government of the United

States will stand firmly upon the old rule, and, as the heaviest producer of both the precious metals, give to each, to the extent of our power, its proper position in the currency of the world, it will not, with the aid of the other bimetallic powers, be many years before the contest will be ended and silver coin will again occupy its proper position, not only in the United States, but in every country in Europe, as it now does in every country elsewhere; and the proper ratio of relative value will still be found to be from 15 to 16 of silver for 1 of gold.

The President *pro tempore*. Is it the pleasure of the senate that the morning hour shall be extended until the senator from Georgia concludes his remarks?

Mr. Allison. I move that it be extended.

The President *pro tempore*. The Chair hears no objection, and the morning hour will be so extended.

Mr. Brown. Not only do the other leading nations of Europe deprecate the course taken by Great Britain and Germany in the demonetization of silver, but the German Empire is itself sensible of the danger attending its general demonetization. In the monetary conference of 1881, the chief representative of the German Empire, Baron von Thielmann, refers to this question in terms of no doubtful import. He says:

"We recognize, without reserve, that the rehabilitation of silver is to be desired, and that it may be attained by the re-establishment of free coinage of silver in a certain number of the most populous States represented in this conference, if these States, to this end, should adopt as a basis a fixed relation between the value of gold and that of silver."

And after stating that Germany adheres to her present system, he says:

"The imperial government is, on the other hand, entirely disposed to do its best to second the efforts of the other powers which might wish to unite, with a view to the rehabilitation of silver by means of free coinage of this metal. In order to reach this end and to guaranty these powers against the afflux of German silver, which they seem to fear, the imperial government would voluntarily impose upon itself the following restrictions:

"During a period of some years it would abstain from all sales of silver, and during another period of a certain duration it would pledge itself to sell annually only a limited quantity, so small in amount that the general market would not be glutted thereby. The duration of these periods and the quantity of silver to be sold yearly during the second period would form the subject of ulterior negotiations. Such an arrangement would efficiently protect the mints of bimetallic States against the unlimited overflow of German thalers drawn from the national fund. Private individuals or the Imperial Bank, (which is a private bank under special control of the government.) would not be able, on the other hand, to cause thalers to flow to the mints of the bimetallic union, except in the case of the balance of trade being against Germany, or unless the relation of 1 to 15½ established by the bimetallic union should undergo a considerable modification in favor of silver. This last contingency appears, however, but slightly probable.

"In all other cases the exportation of thalers would of necessity entail a loss to those who might undertake it; and hence the States of the bimetallic union have no occasion to apprehend that the silver of Germany will inundate their mints. Furthermore, these operations could be rendered still more difficult by excluding specie in thalers from the coinage in the bimetallic union. A measure of this kind would add to the other expenses to be borne by the exporters of silver that of the cost of melting down and refining the thalers."

So the United States could very easily keep out an influx of European coins by refusing to permit their coinage at our mints.

But the German delegate continues :

"If an international arrangement based upon these indications could be arrived at, Germany would still remain free to sell silver within these self-imposed limits, or to sell none at all. But Germany, in order still further to contract even these limits, might make other concessions. She could provide in her own circulation a wider area for the metal silver, thus enlarging the use of it.

"To attain this end, the imperial government would engage eventually to retire the gold pieces of five marks, (twenty-seven and three-fourths millions,) as well as the imperial treasury notes of the same value, (forty millions of marks.) It might further melt down and recoin the silver pieces of five and two marks, (seventy-one and one hundred and one millions of marks,) taking as a basis a relation between the two metals approaching that of 1 to 1 $\frac{1}{4}$, whereas under existing legislation one hundred marks are made from the pound of fine silver, which is equivalent nearly to the ratio of 1 to 14.

"You have here, gentlemen, the concessions which the imperial government would offer, and of which its delegates are now ready to discuss the scope and the details of execution."

This shows conclusively that the German Government sees the hazard in the future involved in its new system, and that it is ready by self-imposed restrictions to do all it can, short of present abandonment of the system of gold monometallism, to encourage the rehabilitation of silver. With these restrictions imposed upon the sale of German silver, a very large part of which, by the by, has already gone upon the market, and with the bimetallic system accepted by the Latin Union, Austria-Hungary, and Russia, and with said system prevailing as it now does all over the continent of America, and with monometallism in silver as the rule in Asia, there could, it seems, be no serious hazard to our Government and commerce in establishing bimetallicism on a firm basis.

It is very clear from the foregoing statement that the German Government is not willing in future to sell its silver upon a basis of more silver than 15 $\frac{1}{4}$ to 1 in gold. Under the present law of Germany there is a small quantity of silver coined for each inhabitant of the empire, about ten marks, I believe, and there, as stated by the German delegate, the ratio established is about 1 to 14. When our ratio is 1 to 16 there is no danger of German silver inundating our mints or interfering with our markets. They do not wish to sell their silver at the price we put upon it. While we hold it at 1 to 16, silver will be drained from America to Europe, and not from Europe to America. This is clearly shown by the importation and exportation of gold and silver for the past two years, and cannot be changed unless there is an immense overproduction of silver. But here again the very reverse is true; the overproduction is in gold, and not in silver.

Dr. Broach, of Norway, prepared a table, which he laid before the monetary conference of 1881, from the best sources of information at his command, as to the production of the precious metals in the world since the discovery of America, estimating the value of each metal during each period in francs.

From the year 1493 to 1600 the whole production, in round numbers in francs, was, of gold, 2,800,000,000; silver, 5,074,000,000. From 1601 to 1700, of gold, 3,148,000,000; silver, 8,275,000,000. From 1701 to 1800, of gold, 6,544,000,000; silver, 12,672,000,000. From 1801 to 1850, of gold, 4,081,000,000; silver, 7,271,000,000. During the twenty-nine years from 1851 to 1879, gold, 18,778,000,000; silver, 9,101,000,000. Showing that during the eighteenth century the silver produced by the world doubled the gold in value. During the first half of the present century it occupied the relation

of about 4 in gold to 7 in silver; and for the last twenty-nine years the production of gold has more than doubled that of silver.

So far, then, from there being a necessity for depreciating the value of silver in the coinage on account of overproduction, the value of gold should be depreciated and the value of silver increased. In other words, if either must be demonetized on account of overproduction, it should be gold, which from half the amount of silver produced during the eighteenth century sprang during the twenty-nine years after 1850 to double the amount of silver produced.

As already stated, then, overproduction is not the difficulty. The world is making rapid strides in developing new enterprises every year. Commerce has received an impetus from the discoveries made in the arts and in the sciences, in steam and electricity, within the last half of a century, which has no parallel and no approximation to a parallel in all the history of the past. The different nations of the world are being thrown together as near neighbors, space is being annihilated, and the human race is becoming more intimately associated as one people. There has been a rapid advancement in agriculture, in all the mechanic arts, in railroading, shipbuilding, in transportation on land and by sea, in manufactures and commerce, requiring a greatly increased quantity of money for a circulating medium to do the business of the world, and instead of an overproduction of the precious metals, the great increase in the demand, and the yearly waste or loss from use taken into the account, the present production is not adequate to the real wants of mankind. This is further demonstrated by the extensive use of a paper circulation not predicated upon a solid specie basis which several great powers are compelled to adopt. In the monetary conference of 1878 Mr. Goshen, in speaking of having gold alone as a standard, uttered a solemn warning when he said:

"Any important new step in this direction will have the effect of provoking one of the gravest crises ever undergone by commerce."

And he adds:

"The theory of a universal gold standard is Utopian, and, indeed, involves a false Utopia."

And he might truthfully have added, it is a departure from the practice of civilized nations for many centuries past.

Why, then, should we, the great silver-producing power, seek to depreciate the value of this most valuable and precious product? Why should we join with Great Britain and Germany in destroying the relative position it has held during all the past history of the world as compared with gold, giving to gold alone the name and importance of money?

It is a well known fact that silver is the principal money or medium of exchange used in China, British India, Japan, and in fact all the other eastern nations. More than two thirds of the people of the globe prefer it to gold, and use it chiefly as their money. South America is a large producer of both gold and silver; so is Mexico, but there the silver dollar is still recognized and used as a circulating medium, as legal money; no discrimination against it.

We are fast becoming a vast manufacturing power, as well as a great agricultural power, with a large surplus of our farm products and the products of our different manufacturing establishments for exportation. We look chiefly to China and other eastern nations and to South America as the markets where we can most successfully compete with England and France and other commercial powers, but especially with the former. There is a very large balance of trade against us in Brazil and the West Indies. Both these countries use silver as legal money. In paying that large balance of trade

in specie, why should we send our gold, if we prefer to keep it, out of the country, when they would as soon have silver? Why not send it to them in payment of these balances? The same remark applies to the Hawaiian Islands, where our purchase of sugar turns the balance of trade against us. Why not maintain our silver standard and our silver coins, and pay these balances in silver or in gold as it suits our convenience; and why not send our silver to China and the other eastern nations in exchange for their commodities; for there, too, the balance of trade is largely against us?

We occupy the vantage-ground in this, that the balance of trade is largely due to us from the great gold powers, as Great Britain and Germany, and they settle balances with us in gold. On the other hand, the large balances of trade against us are due to the foreign powers in which silver alone or silver and gold are the standard, and we can settle with them in silver.

Great Britain in demonetizing silver may have advanced her European interests, but it can not be said she has advanced her trade with eastern powers. She has struggled hard to introduce gold currency in India, where she dominates, but she has been unable to do so. Why then should not the United States, the great silver-producing power, stand by her production and maintain for it its proper position as money, to be used perpetually in our competition with Great Britain for this vast and growing trade?

Mr. Jevons, an able British author, speaking of the policy of Great Britain and Germany in demonetizing silver and its effects upon the commercial world, says:

"The nations of Europe constitute only a small part of the nations of the earth. The hundreds of millions who inhabit India and China and other parts of the eastern and tropical regions employ a silver currency, and there is not the least fear that they will make any sudden change in their habits. The English Government has repeatedly tried to introduce gold currency into her East India possessions, but has always failed. The gold coins now circulating there are supposed not to exceed one-tenth of the metallic currency. Although the pouring out of forty or fifty millions sterling from Germany may for some years depress the price of the metal, it can be gradually absorbed without difficulty by the eastern nations, which have for two or three thousand years received a continual stream of the precious metals from Europe. If the other nations should one after another demonetize silver, yet the East may be found quite able to absorb all that is thrown upon it."

This is the opinion of an English writer. In this state of the case, why should the Government of the United States, looking as it must do to these great eastern nations for a vast commercial intercourse, which will be greatly to our advantage, strike down silver as a currency or as a medium of exchange, and thus lose the great advantage which its use would give her with those densely-populated countries where it stands in such high favor as the principal currency in use? Looking to the present, and more especially to the near future, it seems to me that neither wise statesmanship nor practical common sense would dictate such a course.

In the nature of things there can be no more reason why gold should fix the standard value of silver than why silver should fix the standard value of gold. Commercial nations have given to gold the greater value because it was the scarcer metal. But in its essence it is no better adapted for the uses of currency than silver; indeed, gold is probably less adapted to the uses of a circulating medium, as the loss by wear, when the value is considered, is much greater. But after all the value of any article or commodity to be used as a circulating medium depends on the ability and authority of the government that puts it into circulation. A piece of blank bank-note paper is intrinsically as valuable as a one-hundred dollar United States Treasury note

of the same size and weight. But, in fact, the first is worth almost nothing, while the last is worth a hundred dollars. Why? Because the Treasury note has upon it the stamp of the authority of the Government of the United States, declaring that this piece of paper shall be a legal tender in the payment of debts. If it were stamped with the same letters and figures, bearing the same colors and appearance, with the name of some Indian tribe or African chief, it would probably have no greater value than its size and weight in blank paper. It is the authority of the Government and its ability to pay and its known good faith that gives value to its promises and causes mankind to receive the paper bearing the stamp of its authority as money.

I have assumed, and I have no doubt correctly, in this age of enterprise, improvement, and development, that all the gold and silver in the world is scarcely adequate to the requirements of the world to supply the demand for money now in existence. It might or might not have been as well for mankind if gold alone or silver alone had been agreed upon as the circulating medium or as money. In that event all the property of the world, compared with this standard, would to-day have had a value of say one-half its present value computed in pounds or dollars, because the quantity of the circulating medium or standard by which all the property of the world was to be measured or weighed would have been, if gold had been the only standard, about half what it now is. Say, for the purpose of illustration, that one-half of the money in the world estimated in dollars or pounds, to-day, is gold and the other half is silver. If you strike down silver as a circulating medium and destroy its value as money, you will have just one-half as much metallic money in circulation as there was before you demonetized the silver. And in doing this you at once reduce the price of every man's property as compared with the standard value of gold coin just one-half. Now I can very readily see the great advantage such an act would be to those who have hoarded large quantities of gold, and to the holders of gold in every part of the world. Before the demonetization of silver, in the case supposed, the property of each person was worth in dollars double the amount it is worth after the demonetization. It would follow, therefore, that the creditor after the demonetization of silver, in the collection of a debt contracted before the demonetization, would get twice as much property in payment of his debt as he would have had if the currency had remained on a bimetallic basis as it was when the debt was contracted.

Again, every capitalist holding a large amount of gold at the time of the demonetization of silver could afterwards buy twice as much property with his gold as he could have done if silver had remained money. It is not very strange that the wealthiest nations and the largest capitalists of the world, having the control of most of the gold of the world, should desire to strike down silver as a circulating medium, or as money, and establish gold as the sole standard, as this would at once double their wealth by giving them the control of the larger part of the money of the world, and enabling them, with that money, to buy double as much property as they could have bought under the old system.

Let us consider this question a moment in connection with our own affairs in this country. At the time silver was demonetized by Congress there was a very large proportion of the people of the United States heavily in debt. A much smaller class, who were capitalists of great wealth and power, had large accumulations of money at their command. Most of those belonging to this able, wealthy, and honorable class were bankers, bondholders, or heavy capitalists. The United States Treasury notes known as greenbacks had been depreciated almost from the time they were issued and had at that time never reached par. And why? Because the Government, in issuing

them, had declined to make them a legal tender in payment of the bonds of the United States or of the coupons upon the bonds, and had declined itself to receive them in payment of duties on imports. If they had been receivable by the Government they would long since have been at par. In this inflated condition of the currency, when greenbacks were far below par, the people had contracted large indebtedness. At that time those debts could be paid either in greenbacks, gold, or silver coin. But Congress, it is believed, at the instance and certainly with the warm approbation of the bondholders, the bankers, the capitalists, and the monopolists of this country, passed the act to demonetize silver, thereby, in case of every indebtedness over five dollars, making gold the only legal metallic tender in payment. Congress at that time still refused to receive its own Treasury notes in payment of duties on imports.

It has been frequently said in discussions of this currency question that justice to the public creditors of the United States requires that the bonds of the Government should be redeemed in gold coin, which is the only money that is a legal tender in Great Britain and Germany and which the gold party of the United States has struggled hard to dignify with the same exclusive prerogative in this country.

And here the secretary of the treasury comes in as an able ally of the gold party and the bondholders. In his annual report, referring to the act of 1873, he says:

"Although the act of July 14, 1870, provides for the issue of United States bonds redeemable in coin of the present standard value, whereby were included both gold and silver coin of that value, yet as by the act of February 12, 1873, the further coinage of silver dollars was prohibited, and the Revised Statutes declared gold coin only to be a legal tender for sums exceeding five dollars, equity, if not strict construction of law, requires that the holders of such bonds should receive payment in gold or its equivalent."

Now, I desire not to be misunderstood on this question. I stand firmly by the public credit. I am in favor of paying the last obligation of the United States in strict compliance with the contract. In other words, I am for the strictest good faith in the payment of the public debt as a whole and in every part. But I am not in favor of giving large gratuities to the public creditor at the expense of the people of the United States. In my opinion gold and silver of the legal standard with the present ratio of equivalence in this country is a safe and a proper currency to be used by this Government and by the people of this country in the payment of every debt of every character. And I am in favor of maintaining such a currency, and of applying it alike to all the creditors and all the people of the United States. I am opposed to the contraction of our greenback currency, and I would reissue them in payment by the Government when redeemed. But I am in favor of redeeming the greenbacks whenever they are presented by the creditor at par, in gold and silver of the old standard, just as I would pay the bondholder at par in the same currency. In other words, I am opposed to one currency for the bondholders and another for the people who hold greenbacks or have other obligations of the United States. I know the public debt is sacred and the claims of the bondholder are of as high character as the claims of any other creditor of the Government; but they are of no higher dignity.

Let us examine this question for a moment. During the late civil war there was, I believe, no period after the first few months of its existence when greenbacks were at par with gold and silver. There was a time, however, when the irresistible gallantry and splendid successes of the Confederate troops caused the gravest apprehension in the minds of the ablest statesmen controlling the Federal Government, as well as in the minds of the

mass of the people of the United States, whether it was possible to suppress what is known as the "rebellion," and restore the Government. These doubts at once produced their effect upon the public credit, and a period was reached where one dollar in gold or silver coin was worth about two and a half in greenbacks. At this stage the Government was buying immense supplies of ordnance, camp equipage, clothing, provisions and other articles for the army; and it paid out vast amounts in Treasury notes, usually called greenbacks, in the purchase of these necessary supplies; and these notes or obligations were issued at par, notwithstanding their then depreciated value.

To illustrate: a farmer in Ohio possessed one hundred bushels of corn. The Government needed it. It was worth in the market forty cents per bushel in gold or silver. In greenbacks, at $2\frac{1}{2}$ for 1, it was worth \$100. The farmer sold it to the commissary for \$100 in greenbacks, which he held until a later period, when, under the act of Congress passed April 12, 1866, he converted those greenbacks at par into a bond of the United States drawing 6 per cent. interest.

Now I do not deny that this was a legitimate transaction. The farmer had a right to sell his corn for the use of the army at its market value and take payment in greenbacks, in their then state of depreciation; and when the act of Congress authorized the funding of those greenbacks in the bonds of the United States he had a right to avail himself of the provisions of the act; and by his good fortune he became the holder of a bond of the Government, payable in gold or silver coin, for an amount that was two and a half times the value in specie of his corn when he sold it to the Government.

But having become a legal creditor of the Government, the holder of one of its bonds for \$100 for one hundred bushels of corn that were worth in the market at the time he sold it but \$40 in the same coin which he is to receive in payment for his bond, he is neither in equity nor justice a legal creditor of higher dignity than any other legal creditor of the Government. And there was no very substantial reason why there should have been one currency established by law for his benefit and another for the benefit of a holder of another class of the obligations of the Government. Congress carefully provided, however, that the interest on his debt and the debt itself when due should be paid in gold or silver coin, while other creditors were compelled to take payment in greenbacks. To carry out this arrangement the Government refused to receive its own Treasury notes in payment of custom-house dues upon imports, but compelled such payments to be made in coin; and that coin, or a sufficient quantity of it to meet the demand, was set apart for the payment of the coupons of the bondholder and for the payment of the bond at its maturity, while other creditors of the Government or other classes were compelled by law to receive the depreciated greenbacks in payment of their demands, and the people were compelled to receive them of each other in payment of debts due from man to man.

The bondholders became a large and very influential class, and they seem to have been the peculiar favorites of the Government; and in 1873 an act was passed, as already stated, demonetizing the silver coin, in which the Ohio farmer above mentioned, at the option of the Government, had agreed to take payment of his bond, and which every other bondholder had by contract agreed to receive in payment, and gold by that act being made the only legal tender coin of the United States the farmer became entitled to receive while the act was in force in gold coin payment of the one-hundred-dollar bond which he had received for one hundred bushels of corn worth forty cents a bushel in gold or silver at the time he sold it. This act demonetizing silver and making gold the only legal tender in payment of debts over \$5 was

followed by a contraction of the currency. This was followed, in September, 1873, by the great commercial crash, and the contraction went on, and the price of property went down, down, until the farmer with the gold received for his coupons could buy produce in the market for a little over half its value at the time he converted his greenbacks into a bond. The same rule which applied in case of the farmer, with his one-hundred-dollar bond, applied in case of every other bondholder. Silver, in which the Government had a right by the contract to pay all the bonds, had been demonetized; the commercial crash had followed; the price of everything had become greatly depreciated; gold would buy in the market a much larger amount of property than it would have purchased before the demonetization of silver and before the crash. The bondholders got the benefit of this extraordinary state of things; the people were the sufferers. It certainly cannot be said, then, that the United States Government has dealt otherwise than liberally with the bondholders.

I make no further point upon the past. I simply recite what I understand to be the history of this matter. But I say most emphatically that I am unwilling in future that there should be one currency for the bondholder and another and a different currency for the satisfaction of other claims against the Government, and for a medium of exchange for the whole mass of the people of this country. In other words, I would have the Government purchase the bullion with gold and silver certificates when offered for sale, and I would compel the coinage at the mints of the United States, for just compensation, of all the gold and all the silver produced in this country that may be tendered for coinage, at the present ratio of 1 to 16, till the other commercial powers have agreed, as I believe they will do at no distant date, upon the ratio of 1 in gold to 15½ in silver. And I would make that gold and silver coin a legal tender in payment of all debts to all creditors of every class, public or private, and in all transactions among the people of the United States.

The act of 1870 makes the bonds payable in coin of the then standard value, which included both gold and silver. Subsequent acts for the issue of bonds provide that they shall be paid in coin of the standard value of 1870. This being inserted carefully in the face of the bonds, every holder is put on notice when he receives the bond that it is payable in gold or silver coin of the standard of 1870 at the option of the Government. That is, each holder contracts to receive payment in gold coin of 25.8 grains of standard gold to the dollar, or 412½ grains of standard silver to the dollar. The Government, by the act of 1873, suspended the coinage of the silver dollar of this standard, and for the time suspended its legal-tender quality. Afterwards, before the bonds of the present holders came due, it resumed the coinage of the silver dollar of 412½ grains, and restored its legal-tender quality.

Now the Secretary of the Treasury argues that this temporary suspension of the issue of the silver dollar as a legal tender gave the bondholder the right in equity to demand payment in gold coin alone. In other words, that it gives him a right in equity to refuse to accept in payment silver coin of the exact description stipulated for in the contract, because there was a period between the date of his bond and its maturity when the Government did not issue legal-tender silver dollars of the description mentioned in the bond.

Now I deny that the bondholder has any such equity. He contracted to take coin in standard silver dollars of 412½ grains. When the bond is due he is entitled to receive silver dollars of the standard of 1870, or gold dollars, at the option of the Government. And it is too clear for argument that this is the full measure of his rights and equities under the contract. It does not matter whether the Government coined or possessed a silver or a gold

dollar during the period the bond had to run. If it has the coin of the standard of 1870, and tenders it to him in payment, at the maturity of each coupon and at the maturity of each bond he gets the full measure of his rights in law, equity, and justice, and he has no right to demand or receive anything more. And the Government can give him no more without flagrant injustice to its tax-payers.

The Secretary of the Treasury says the Government is able to pay the bonds in gold. That is true. The people of this country are able to pay, within a reasonable time, the bonds in gold, with 50 per cent. added. They are able to make a present to each bondholder of 50 per cent. on the amount of his bond. But upon what principle of equity, justice, or common honesty can he demand it? I protest against all such gratuities to the bondholders and injustice to the people.

Having thus frankly stated my position on this question, I must be permitted further to express my regrets that the Secretary of the Treasury, in his annual report, and the President, in his message, have thought proper to recommend still further restriction on the coinage of silver and the withdrawal of the silver certificates from circulation. To contract still further, or to discontinue for months or years, as the Secretary recommends, the coinage of silver, the production of our own mines, seems to me to be great injustice to one of the important industries of this country. But this is not the worst. It is an act of gross injustice to all the laboring masses, no matter in what branch of industry they may be engaged. It amounts to a contraction of the currency of the country, a destruction of part of the circulating medium, which must result in the depreciation of the value of the property of the people, the stagnation of business, the obstruction of enterprise, the reduction of the price of labor, and the sacrifice of the property of the debtor class to satisfy the claims of the creditor at a price far below its value when the indebtedness was created. And all for what? In plain English, that the rich may be made richer and the poor poorer.

What is the circulation it is proposed to retire? It is \$66,000,000 of silver certificates. What are these certificates? Each is in substance a certificate that there is in the Treasury of the United States the number of legal-tender silver dollars mentioned on its face, which belong to the bearer. It is no inflated paper currency. Each dollar of it is predicated upon a dollar of the legal coin of the United States, held by the Government, payable to the owner on demand.

One of the chief objections made to silver coin by its opponents was that it is bulky, heavy, and inconvenient to handle, transport, or count in making payments. So is gold coin in a less degree. But this difficulty is met and overcome at once, in case of both metals, by the use of the silver or gold certificate. Instead of transporting the coin from place to place, to be used in settlements or other transactions, the gold and silver coin is deposited in a vault in the Treasury, that is perfectly burglar-proof, in charge of the proper officers and under the necessary guard; and, instead of sending out ten silver dollars or ten gold dollars, the Treasurer issues a certificate which represents the ten dollars in either coin, which contains the pledge of the faith of the Government that the ten dollars in coin which the certificate represents is in the Treasury, payable to the bearer on demand. This certificate, in the shape of a Treasury note, is transported and used in payment with all the ease and facility of a bank bill. The same rule which applies in case of the ten dollars applies equally to ten millions or a billion of dollars; the coin lies in the Treasury, and the certificates which represent it go into circulation as money in its place. Not a dollar of certificate is issued without a dollar in specie in the Treasury which it represents.

This, in my opinion, is the soundest and most reliable currency that can be used by the Government. It is not subject to any of the objections which apply to the old banking system, where the bank was authorized to issue three dollars in bills for each dollar in specie. The Government issues its certificates dollar for dollar with the coin in the Treasury. What better currency could any people desire? What sounder currency did any people ever possess? It meets fully the objection made to coin on account of its being inconvenient to handle, and substitutes in the place of coin its representative in paper, which is convenient to handle. The representative is only equal in amount to the coin represented. The depreciation of the representative is impossible, because a dollar in legal-tender coin lies in the Treasury ever ready to meet the demand of the holder.

There is a large wear, and consequent loss, in the handling of the coin, whether gold or silver, while it passes from place to place, and from hand to hand in payment. But if it is laid up securely in the vault of the Treasury, and its representative in paper passes from place to place and from hand to hand in its stead, there is no wear of the coin, and no loss or depreciation on that score.

It is true the silver certificate, or the gold certificate, issued may be lost upon the ocean, or burnt in a house, or otherwise destroyed, so that the holder loses it just as he loses a bank bill. But he takes this risk for the convenience of the circulation, just as he takes it in case of the bills of a bank. In the case of the lost certificate, the Government, representing the whole people of the United States, holds the coin represented by the lost certificate as the money of the people, when the certificate cannot be identified and established. In case of a bank bill the owner loses the amount just as he would lose it in case of the gold or silver certificate. In every view of it, therefore, the silver certificate and the gold certificate would be a better currency for the people of the United States than the currency now in use in the shape of bank bills.

I refer in this connection to the bills of banks, because the President and the Secretary of the Treasury, in recommending the withdrawal of the silver certificates, propose that the banks issue their bills to take the place of the certificates in the circulation of the country. Why should we withdraw the silver certificates to make room for bank bills? When withdrawn, if the bankers, who are generally large capitalists, should determine that it is their interest to contract the currency, and not issue other bills in lieu of the silver certificates withdrawn from circulation, they would have the power to make a contraction of fifty millions or more in the present volume of the currency, and there is no law to control it. It is not proposed, as I understand it, to compel the banks to issue other bills to take the place of the silver certificates withdrawn, but it is proposed to leave them under our banking laws with the privilege of issuing their bills in lieu of certificates. In other words, if the policy of the President and the Secretary of the Treasury is carried out, we exchange a better currency for a worse one in this, that the silver certificate is always redeemable promptly on delivery at the Treasury, in legal-tender dollars, while the bank bill, in case of a failure of the bank, though secure, is not so promptly redeemed. True, the Government in the end provides for the redemption of national-bank bills. But why have this cumbersome machinery? Why prefer to authorize the banks to issue bills for the payment of which they give the Government security, rather than authorize the issue by the Government of its certificates, which represent gold or silver lying in the vault of the Treasury?

I say nothing in reference to our banking system. That is a question I do not purpose at present to consider. But I do say I would never consent

to the withdrawal of the silver certificates or gold certificates, of the kind above mentioned, to make room for the circulation of bank bills. I would never do the people the injustice to take from them the legitimate profits of such a circulation that I might give those profits to corporations, capitalists, or organized monopolists. And why risk the contraction of the currency by withdrawing gold and silver from circulation by their legitimate representatives, leaving it in the hands of the bankers to expand or contract at their will or as their interest may dictate?

Such a policy may serve the interest of the few who have large wealth and enable them greatly to increase their accumulations, but it can never benefit the laboring masses of our people, the hardy sons of toil, who earn their bread by the sweat of the brow; and after all, whether in the field of production, the harvest-field, or the field of battle, they are the bone and sinew and muscle and nerve of society.

The middle classes and laboring men of our country are always most prosperous when every branch of industry is flourishing. When trade is active our villages, towns, and cities are building up. When the products of our factories and mines are in active demand; when new railroads are being constructed, new boats put upon our rivers, and new lines of steamers upon the ocean; when our machine-shops are kept busy to make and repair motive power and other means of transportation, then the engineer, the machinist, the mechanic, and the artisan find ready demand for their labor at good prices, and the farmer and planter remunerative and liberal prices for their productions. This state of things can never exist while the capitalists of the country, backed by the Government, pursue the policy of contracting the currency founded upon a specie basis, which contraction drives new enterprises from the field, destroys the demand for labor, reduces the value of property, and produces distrust, depression and bankruptcy.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, ON THE MORMON QUESTION, DELIVERED IN THE SENATE OF THE UNITED STATES, ON THE 16TH DAY OF FEBRUARY, 1882.

On the bill (S. No. 353) to amend section 5352 of the Revised Statutes of the United States, in reference to bigamy, and for other purposes.

Mr. Brown said:

Mr. President: I am very well aware that there is great popular clamor for the passage of this bill or some very rigorous and severe bill for the suppression of Mormonism. I do not wish my position to be misunderstood in reference to that institution. I am no advocate of polygamy. I deprecate and denounce it as one of the greatest of social evils. I do not believe it should be practiced anywhere. I am ready to unite in imposing such penalties as we can constitutionally impose within the United States upon those who do practice it, because of its immorality. And yet I am obliged to admit, and we are all obliged to admit, that it is practiced, and popular sentiment sustains it among three-fourths of the whole population of the globe.

England has had this same question to deal with. When she assumed the dominion of India she found polygamy there, and it has been there from time immemorial. They did not do what popular sentiment seeks to compel us now to do. The English people did not attempt to crush it out by law, but the British Parliament and the British courts recognized it in India on assuming control and recognize it to-day. Indeed they dare not do other-

wise. They can enforce no law in India that proposes to exterminate polygamy.

On that subject I propose to read a paragraph from Allen's India, a book which I now hold in my hand. On page 551 I find this language :

"Polygamy is practiced in India among the Hindus, the Mohammedans, the Zoroastrians and the Jews. It is allowed and recognized by the institutes of Menu, by the Koran, by the Zendavesta, and the Jews believe by their Scriptures—the Old Testament. It is recognized by all the courts in India—native and English. The laws of the British Parliament recognize polygamy among all these classes, when the marriage connection has been formed according to the principles of their religion and to their established laws and usages. The marriage of a Hindu or a Mohammedan with his second or his third wife is just as valid, and as legally binding on all parties, as his marriage with his first wife; just as valid as the marriage of any Christian in the Church of England."

Mr. Edmunds. May I ask the senator if the same book contains a statement of the laws of Thibet, where one woman may lawfully marry several husbands, and all of them be bound to the marital relation?

Mr. Brown. I am not able to answer that, for I have not read all the book. A senator handed it to me this morning, but I have not had the opportunity to peruse it except sufficiently for my purpose on the point above mentioned. I will say to the senator from Vermont, however, that the English Government has recognized polygamy in India by her courts and by her Parliament, and she recognizes it to-day. I say I deprecate the institution, and I am ready to do everything I can constitutionally and legally do to exterminate it where we have the power; but we cannot shut our eyes to the fact that it exists, as already stated, among the greater portion of the population of the whole globe.

Not only do the British Parliament and the British courts recognize it, but the missionaries of all Christian churches in India recognize it, and do not attempt to overthrow it where the marriage has already been solemnized. I will read from the same book, Allen's India, page 601 :

"The Calcutta missionary conference, consisting of the missionaries of the different societies which have missionaries in that city and its vicinity, after frequent consultations and much consideration on the subject of polygamy as it exists in India, were unanimous in the following opinions:

"1. It is in accordance with the spirit of the Bible and the practice of the Protestant church to consider the state as the proper fountain of legislation in all civil questions affecting marriage and divorce.

"2. The Bible being the true standard of morals, ought to be consulted in everything which it contains on the subject of marriage and divorce, and nothing determined contrary to its general principles.

"3. Married persons, being both Christians, should not be divorced for any other cause than adultery. But if one of the parties be an unbeliever, and though not an adulterer, wilfully depart from and desert the other, a divorce may be properly sued for. They were of the opinion, however, that such liberty is allowable only in extreme cases, and where all known means of reconciliation after a trial of not less than one year have failed.

"4. Heathen and Mohammedan marriages and divorces, recognized by the laws of the country, are to be held valid. But it is strongly recommended that if either party before conversion have put away the other on slight ground, the divorced party should in all practicable and desirable cases be taken back again.

"5. If a convert before becoming a Christian has married more wives than one, in accordance with the practice of the Jewish and primitive Chris-

tian churches, he shall be permitted to keep them all; but such a person is not eligible to any office in the church. In no other case is polygamy to be tolerated among Christians."

Thus it appears that the conference of the missionaries of the Christian churches in Calcutta recognizes this institution. They do not permit their members in the future, or after their conversion and their connection with the church, to marry more than one wife; but they do not attempt to dissolve marriages in existence at the time of the conversion, but they hold that a man who becomes a Christian, who has more than one wife at the time, is to continue to cohabit with his wives. I presume this arises out of the very necessity of the case, as polygamy is so firmly established in those countries that it would be impossible to plant Christianity there without recognizing the existing institutions of the country, at least so far as the family relations of the convert are concerned at the time of his union with the church.

Again, it cannot be denied that polygamy was tolerated by the Old Testament, and many persons believe it is not prohibited by the New, except in case of a bishop, or a deacon, who it is said shall be the husband of one wife. Some reason subtly on that by saying that we should apply to it the Latin maxim, *expressio unius est exclusio alterius*, and they say the fact that the expression that the deacon or the bishop shall be the husband of one wife only, carries with it the implication that others may have more than one. I think this is a very far-fetched and strained construction; I do not agree with it, for the whole teachings of the New Testament, it seems to me, are very clear and positive that the husband shall have but one wife. I remember no instance where husband and wife are mentioned in the New Testament where anything is said about more than one wife, and while there is no positive inhibition, except in the instance mentioned of officers of the churches, it is very clearly to be inferred that polygamy was not intended from the fact that there is no instance of more than one wife mentioned as connected with any one man, or that any man is justified in having more than one. But there are those, I say, who entertain a different opinion on this subject, and they must have their opinion. I have no right to fly in their teeth about it.

But, Mr. President, there are those in the Mormon territory who believe that there is a divine revelation later than the New Testament which authorizes a member or the Mormon Church to have more wives than one. They believe in the revelation, as they term it, made by God himself to their prophet, Joseph Smith. I do not believe in it, but they religiously believe it. Many of them are as earnest and honest in their faith as I am in the Baptist faith, or as other senators are in the Methodist or Presbyterian faith. I think they are greatly in error; but I have no more right, if they do not practice it, to disfranchise them on account of that belief than I have to disfranchise any senator in this chamber or any man out of it who believes that the New Testament does not forbid polygamy.

Mr. Edmunds. May I suggest to the senator that there is nothing whatever in this bill that disfranchises any man or woman on account of any opinion or belief he or she may have?

Mr. Brown. Mr. President, I assert that there is. I take issue squarely with the senator from Vermont.

Mr. Edmunds. Will the senator kindly point it out?

Mr. Brown. I will. I find in section seven of this bill this language:

"That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory or other place, or be eligible for election or appoint-

ment to or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States."

Now to the first part of the section again:

"No polygamist, bigamist, or any person cohabiting with more than one woman, * * * shall be entitled to vote."

Who is a polygamist? I hold in my hand Webster's Unabridged Dictionary, which is very good authority, I believe:

"Polygamist: a person who practices polygamy, *or maintains its lawfulness.*"

There is scarcely a man, woman, or child in Utah belonging to the Mormon church who does not maintain the *lawfulness* of polygamy.

Mr. Edmunds. The senator is mistaken about that, but that is not any part of the argument.

Mr. Brown. There may be a few—

Mr. Edmunds. There may be a great number, and there are.

Mr. Brown. There are very few, if any, who doubt it.

Mr. Edmunds. I can tell you just how many there are, in a minute.

Mr. Brown. I will thank the senator. I suppose there are some in every country connected with every faith who do not believe in all that their particular church or sect holds. I have been among the Mormons, however; I have seen something of their society; and I know the great prevailing opinion there is that God by a divine revelation made known to the prophet, Joseph Smith, that a man in the Mormon church may have more than one wife, that he may practice polygamy. Only a small number of them do practice it, I admit; but it is almost, if not quite, the universal belief that they have the right to do it.

Mr. Edmunds. Of course we cannot have a judicial trial to-day to find out, as my brother from Alabama wishes to do on this political question, how the fact is; but according to the returns obtained by the census people (not always under the act of Congress, because they go beyond that) of what are called apostate Mormons, who do not hold up to the polygamy doctrine, there are 6,988 in the Territory, and of what are called Josephite Mormons who hold up to all the doctrines except that one thing—but I do not know precisely the distinction between the Apostate and Josephite Mormons—there are 820. So it would seem there are more than 7,000 of the Mormons, besides certain ones put down as doubtful whom I leave out, who do not appear to believe in this revelation of polygamy which occurred about twenty or thirty years after the finding of the astonishing gold tablets and so on. That is the Book of the Covenant.

Mr. Brown. I think they were brass, not gold.

Mr. Edmunds. Perhaps they had most to do with brass.

Mr. Brown. I do not think they were pure gold.

Mr. Edmunds. As I have been reading the Book of Covenants of the Mormon church lately with assiduity, I think they were gold, but at any rate the polygamous thing came in more than twenty years after its supposed discovery and came in under circumstances that if my friend would read the very book itself to show how it came and why and so on, I think he would be satisfied that it would take a pretty stout-hearted man among the Mormons to think that that was of divine revelation, for it absolutely reversed the previous revelation from the invisible world. I did not want to interrupt the senator, however.

Mr. Brown. It is no interruption. I do not presume I am as well posted in Mormon literature as the honorable senator from Vermont, though I have read some of it. I agree with him that in the commencement Mormonism did not tolerate or practice polygamy; you may read the book of Mormon

and you will nowhere find in that book that polygamy is tolerated; but the Mormons believe that subsequently to the discovery of that book, which the senator says was on gold plates—I think they were brass—

Mr. Edmunds. We will compound it and call it silver, which is a popular thing. [Laughter.]

Mr. Brown. Anywhere along between. [Laughter.] They say that since that discovery God revealed to Joseph Smith under circumstances, as the senator says, that do not carry conviction to my mind, though they do to theirs, that a man might have more than one wife. And now just in that connection let us say a little more about the Mormon faith.

As I understand the Mormon doctrine and the Mormon people, they profess to believe as firmly as we do in the Old Testament, but they say much of the Old Testament is repealed by the New. Then they profess to believe in all the New, that has not been repealed by later inspirations and revelations; but they believe that there are certain things in the New Testament which have been repealed by later revelations from Heaven. I am speaking of their faith, so far as I could learn it among them during the short stay I made there some two or three years since. I could hear of no one connected with the Mormon church who disbelieved this doctrine. At any rate, out of the one hundred and forty-odd thousand population in that Territory, or connected with that church, according to the estimate of the senator from Vermont, (if that is a correct census return,) there are only about six or seven thousand who do not believe in polygamy.

Mr. Edmunds. The whole population is 143,963, according to the census.

Mr. Brown. Then it would leave 137,000 in round numbers, who do believe in it against 6,000 who do not.

Mr. Edmunds. Oh no, the senator is mistaken. I only speak of the Mormon population, the total Mormon population.

Mr. Brown. The senator is confining himself to the Territory of Utah. [Addressing Mr. Edmunds.] Do you not know that the Mormons have very strong church relations with, and have planted colonies in, other Territories?

Mr. Edmunds. I do not know anything about that. I was speaking of Utah alone.

Mr. Brown. Mr. President, they are as unanimous on this question as any church or any people anywhere are on any question. There may be some dissenters; doubtless there are some. They maintain, in other words, the *lawfulness* of polygamy. Then, according to the definition given by Webster, they are polygamists; and then, according to this bill, they are every one disfranchised. It is a sweeping disfranchisement of almost the entire people of a Territory. And in order to carry out that disfranchisement we must resort here to a practice better known in the South than it has been in the North. Whenever it is necessary to make a Republican State out of a Democratic State, or a Republican State out of a Democratic Territory, the most convenient machinery for that purpose is a Returning Board, and it has worked admirably in the South. By fraud, perjury, forgery, and villainy, the returning-board system cheated the people of these United States out of a legal election for President. It does not therefore specially commend itself to the American people. It stinks in the nostrils of honest men.

We propose now to deal with this question by constituting a Returning Board of five persons to be appointed by the President of the United States, with the advice and consent of the senate, all of whom, says the bill, as brought forth by the Committee on the Judiciary, shall not be members of the same political party. I propose to amend it by saying not more than three of whom shall be members of the same political party, so as to compel the appointment of two Democrats in place of one; and on the other side of the

chamber that proportion is stoutly met and resisted. Why is it that it is necessary to have four of the five members of this board Republicans, and only one Democrat? Will not a majority do this job as well as a minority? Cannot three carry out the object? If the Democrats have two, it seems it is feared it might not work; and it is safer not to trust it to them, lest, to the great disappointment of some very patriotic gentlemen, it might turn up a Democratic State.

In my opinion the people of Utah have at least one good quality, and that is, that an overwhelming majority of them are Democrats. If we ever reach a point where they are to be admitted into the Union, they have a right to come in as a Democratic State; but under this Returning Board legerdemain, it is very fair to presume that they will not be permitted so to come. If not even two out of the five who are to manipulate the returns are to be Democrats, there can be but little hope of a Democratic State. And there may be a very good political reason just there, why the whole population, almost *en masse*, should be disfranchised. If they are permitted to vote, there is no chance for a Republican State. If a returning board manipulates the election, and the population of Utah, or a vast majority of them, are driven from the polls, then there is a prospect of a Republican State there.

Not only does this bill as reported by the Committee on the Judiciary propose to disfranchise and drive from the polls almost the entire population of Utah, but it proposes in the very teeth of the Constitution of the United States to disfranchise them from the right to hold office.

Mr. Edmunds. Will the senator from Georgia mind if in connection with that remark of his I should read the legal definition of a bigamist and polygamist as distinguished from his Webster definition.

Mr. Brown. Go on, sir.

Mr. Edmunds. Turning from the land of literature to the region of law, with which statutes are supposed to have something to do, I will read out of the first book I sent for at random—Burrill's Law Dictionary, supposed to be pretty correct, this clause:

"Bigamus.—In old English law. One who has been twice married, or has married more than one wife; a bigamist. Applied originally in the canon law, to *clerks* or ecclesiastical persons, who were forbidden to marry a second time. * * * *Bigamus* is he that either hath married two or more wives, or that hath married a widow."

Under the old law a man who married a widow was a bigamist, I do not think under the modern law this statute would prevent a man marrying a widow. Now I come to what is more to the point I am speaking to:

"A polygamist is he who has had two or more wives at the same time.—3 *Inst.*, 88."

So that I beg to assure my distinguished friend from Georgia that the Judiciary Committee thought—very likely it was mistaken after what he and Webster have said—that the legal definition of "bigamist" and "polygamist" was perfectly understood everywhere, not a matter of opinion, but a matter of fact. I thank my friend for allowing me to state this.

Mr. Brown. I much prefer that my friend from Vermont should state all his points as we go along.

Mr. Edmunds. I would not do it to interrupt the senator's remarks.

Mr. Brown. The senator from Vermont has produced a book which defines a bigamist to be a man who has married a widow, and a polygamist a man who has had two or more wives at the same time. He himself repudiates the first definition; and the last does not embrace a man who now has two wives. I am certainly content if the senator is. And I am willing to

put Webster against Burrill as an authority on the definition of words, or the meaning of the English language.

No matter what Burrill may say, it will be very convenient for this Republican returning board, when they go to Utah, to take Webster in their hands and drive from the polls every voter who proposes to cast a ballot, if he is a member of the Mormon Church, on the ground that he is a polygamist. I would not like to leave it in the hands of such a board, with such an authority as Webster to sustain them, to determine whether a Democrat who believes in the lawfulness of polygamy, though he does not practice it, should be entitled to vote. It would be like leaving the lamb in the inclosure with the wolf. There would be no prospect of his vote being received.

But at the time I was interrupted by the honorable senator from Vermont I had stated that I would proceed to show that this bill if passed disfranchises Mormons from holding office on account of their religious opinions, in the teeth of the Constitution of the United States. I read from article 6, section 3, of the Constitution of the United States:

"But no religious test shall ever be required as a qualification to any office or public trust under the United States."

It has been argued here that the Congress of the United States has absolute power over the Territories and over the District of Columbia; that we can give to the Territories and the District such government as we think proper. It is outside of my purpose to controvert that; it is not necessary that I should. But nothing can give to Congress the right, in the teeth of the Constitution, to prescribe a religious test for a person living in the District or in the Territories that excludes him from holding office. I maintain that that is just what is done in this case. I know it is said sometimes that the action of the Mormons in practicing polygamy is an immorality, that there is no religion in it, and that we do not interfere with the constitutional rights of a Mormon when we prescribe the test that he shall not hold office if he believes in the lawfulness of polygamy. What is a religious test? To ascertain that it is necessary to inquire what is religion? Webster defines it thus:

"1. The recognition of God as an object of worship, love, and obedience; right feelings toward God as rightly apprehended; piety.

"2. Any system of faith and worship; as, the *religion* of the Turks, of Hindoos, of Christians; true and false *religion*."

That is the definition of Webster, and I still think he is pretty good authority. I repeat it:

"Any system of faith and worship; as, the *religion* of the Turks, of Hindoos, of Christians; true and false *religion*."

That is Webster's definition of religion. Then, a religious test would be a test pertaining to religion as defined, or a law prescribing that a person should not hold office because he professed or practiced a particular religion, no matter whether we believe it to be a true or a false religion. According to Webster, it would be a violation of the Constitution if you say that a man shall not hold office because he believes and practices the Turkish religion, or the Hindoo religion, (for he mentions both,) or the Christian religion.

Mr. Edmunds. Would the senator really object to a law, supposing it were not unconstitutional, (which is another question,) which said that no man should be entitled to participate in the government of the State of Georgia that was in the practice of having all his father's wives, one or more, burned, Hindoo fashion, when his father died? There is some difference between facts and faith in the minds of most people, I submit to my friend, and it comes down (to state the point) to this essential distinction, that all

political society has recognized between regulating political rights—and I may say, for that matter, civil rights in a large degree, but I need not go in to that now—depending upon certain conditions of fact, as the supreme court of the United States decided in the Reynolds case on this pretense of its being a religious faith to have four or five wives, and therefore you could not interfere with it. It comes down to a fact. There are many men in the State of Vermont who believe that they have an inherent right to sell liquor although it is prohibited, that it is a natural right that belongs to every man. The State says: "If you do that thing, you cannot do certain other things." Is it possible that my friend from Georgia really means to maintain the proposition that in a Republican country, a government of the people, it does not belong to a majority of the people to say that certain acts, certain conditions of bodily existence, shall not be made the test of participating in the government of that State? This is the point. You may call it religion or what you will.

Mr. Brown. The senator might have saved himself a discourse of some length, which must be printed in my speech, if he had noticed a little more carefully what I was saying, or if he had waited till I was through on that point. I do not deny the right of a State to punish any sort of immorality.

Mr. Edmunds. I am not speaking of punishment; I am talking about political rights.

Mr. Brown. I will answer the question if you will keep quiet only a short time.

Mr. Edmunds. I will keep quiet entirely.

Mr. Brown. I do not ask that; but when I am replying to the senator's long questions I prefer to be heard myself. I do not deny the power of the state to inflict punishment for immorality. I am willing to vote for a law to punish persons, not for what they have done in the past when there was no law prohibiting such acts, but what they may do in the future that is criminal, in the Territory of Utah or any other Territory. I believe that bigamy or the double wife system, if I may so term it, is immoral; and I am therefore willing to inflict penalties, or to vote for a law that does inflict them upon those who are legally convicted of that offense, committed after the passage of a law prohibiting it. But I am not willing to put it in the hands of returning boards, to drive from the polls in Utah every man who believes that he or any other man has a right to practice polygamy, if he does not practice it. I would only consent to punish him for his criminal conduct, not for his belief or his faith or his religious opinions.

Again, as to the instance put by the senator from Vermont in my State, if it were possible for there to be such an instance there; if any man there believed it was right to burn his father's wives—we do not allow them to have but one wife there—upon the funeral pile I would inflict penalties upon him for practicing it; but if he really believes it is right I have no right to exclude him from holding office because he says he believes it.

Mr. Edmunds. So say I; so say we all.

Mr. Brown. Then it turns out that there would have been but little reason for the interruption by the senator, had he heard me through.

Mr. Edmunds. I think it turns out that there was.

Mr. Brown. That is a difference of opinion.

Mr. Edmunds. That is liberal.

Mr. Brown. Then I hope you are content. I say you have a right to punish a Mormon for adultery or fornication or bigamy. I make no issue with you there. But you have no right to punish him for it until you have legally convicted him of the crime; the court having a right to inflict the penalty by the proper officers, and I shall always approve it when so done; but I am

not ready to place a whole community under the ban because a few persons there practice this immoral habit. I am informed that there are comparatively few Mormons who have more than one wife, yet almost the entire Mormon population believe it is legal for a man to have a plurality of wives. Let us be careful that we do not establish precedents that may lead to the destruction of freedom of opinion, and the subversion of constitutional liberty, and religious toleration in this country.

When we come down to this matter of persecution or prosecution for opinion's sake and go beyond punishment for crime committed, we tread upon very dangerous ground. If we look back over the history of the past we have abundant evidence to justify this assertion. The time was when the Catholic Church tolerated no dissenters and punished in an exemplary manner those who denied the infallibility of the Pope and the authority of the church. That day has passed, at least it is so in this country, and to their honor be it said, to the Catholics and Baptists of the United States the glory is due of having been the first two denominations—the Baptists a little in the lead—to establish on this continent full, unqualified religious freedom. But even then differences of opinion could not be tolerated by those in power, and the early settlers of New England, who held another faith, persecuted both Baptists and Catholics alike for dissenting from their view. Such is the weakness of human nature; such is the danger of persecution for opinion's sake.

Mr. Edmunds. I wish you would leave out the State of Vermont when you speak of New England, because it is not true as to it, but the reverse.

Mr. Brown. I said New England, and I was right; but I am very willing to except the State of Vermont, as requested by the senator. No instance at this time occurs to me in relation to that State. I believe the senator is right in asking that she be exempted. I wish I could say as much for all the other States of New England, and for all the States of the world. I am not mentioning this to be offensive to New England, but I mention it to warn senators of the dangers of a spirit of religious persecution, and to ask them also to reflect on the danger of political persecution for opinion's sake. The dominant church in New England at the early settlement persecuted the Catholics and the Baptists. The historian says they made acquiescence in their own church practices and beliefs a test of citizenship. (2 Elliott's History of New England, page 206.) The Quakers were whipped at the cart tail from town to town, because they practiced their own religious opinions. Men and women were hung because they were convicted by New England tribunals of being witches. The Baptists were taxed for a long period to support the clergy of the established denomination there; and Roger Williams, their great leader, was banished from Massachusetts on account of his religious opinions. Quakers were driven out of New England under a severe penalty if they returned. And one unfortunate man was banished under penalty of death if he returned, for asserting that he was free from original sin, and had not committed a sin in six months. This was the intolerance in a past century.

I have referred to the Catholics. Coming down still later within the present century, within the present half century, it has not been fifty years ago that the Catholic Church established at Charlestown, in Massachusetts, an Ursuline convent or college, and it was so offensive to the good people of that State that a mob was raised to burn it, and it was burnt under circumstances of the utmost aggravation. Helpless women were driven out of it. They fled to save their lives, and the death of one or two and the insanity of another resulted. The attorney-general, in summing up the enormity of the crime to the jury, uses the following language: "A murder thus crowned

the perpetration of burglary, incendiarism, sacrilege, and plunder." (For a full account of this great outrage see fifth volume of Bishop England's Works.) So strong was religious intolerance then, that that good old State, which usually punishes crimes exemplarily, was unable to punish the perpetrators of this offense. A former penitentiary convict was the leader of the mob, and he was put upon trial for it. The jury acquitted him under circumstances the most extraordinary, and the verdict was loudly applauded by the populace. Handbills had been stuck upon the bridge crossing the river, threatening the assassination of any one who gave information in reference to the deed.

That was forty-eight years ago. If religious intolerance in this most enlightened and intelligent State was so great forty-eight years ago as to incite men to burn and desecrate the convents of the Catholic Church, and the riot was permitted with impunity, how can we trust ourselves forty-eight years later to make indiscriminate warfare upon the people of any territory of these United States on account of any opinion of theirs, religious or otherwise? It is a dangerous experiment. Enact your laws to punish crime; I will vote with you. Make your penalties as severe as you will; when the culprit has been convicted I will say let him suffer; but do not proscribe a whole community because they differ with us in opinion.

Even in the old State of Connecticut, in the year 1834, in Windham County, a Miss Crandall opened a school for young colored girls, and the indignation of the people grew so high that they determined to break it up. They went to the Legislature and got an act passed on the subject; they carried it to the judiciary; they resorted to every means possible to suppress it legally; but failing, they took their iron crowbars, after it had been once set on fire, and went and broke out the windows of the house and drove the teacher away, as they could not bear the outrage of a school there to teach young colored girls. (See Larned's History of Windham County.)

Mr. Hoar. How was it in Georgia?

Mr. Brown. Georgia may have done wrong in some instances, but I am not now defending her wrongs; I am speaking of the danger of yielding to these popular clamors and proscribing or putting down people because we differ with them in opinion. Connecticut would not now do what she then did. She now stands by the rights of colored people, and, to their honor be it said, I believe both her senators favor appropriations to educate the colored people everywhere in the United States. I thank them for it; it is right; but I mention the instance not to reflect on the people of Connecticut, but to show the danger of yielding to popular clamor, where any institution does not meet with popular favor.

In 1855 this country was convulsed with one of the bitterest political campaigns we have ever had, the corner-stone of the platform of one of the political parties being that Catholics should not hold office, and proscribing them for opinion's sake. It was said that the Catholic believed in the infallibility of the Pope, and believing this he could not be a true citizen of any civil government; that his primary allegiance was due to the Pope, and therefore he could not be trusted with office. This erroneous opinion found followers by the thousands and hundreds of thousands in the United States at that time.

Let me give another illustration. It is only within the last few years, if I am correctly informed, that the constitution of New Hampshire permits a Catholic to be a member of the Legislature of that State.

Mr. Blair. I should like to correct the senator to a certain extent in regard to a popular impression that Catholics have not been permitted to hold office in the State of New Hampshire until a very recent alteration in

the constitution. The matter of the religious test did survive nominally in our constitution until its last change, some three years since; but as a matter of fact the provision was obsolete. I think it must have been obsolete for the last half century. Nearly twenty years ago I myself sat side by side in the Legislature of New Hampshire with an Irish Catholic who represented the city of Manchester. It was an obsolete provision; and our people, who have been very conservative in regard to holding conventions for the purpose of altering their fundamental law, allowed it to remain, knowing that it was not acted upon, until at last it becoming necessary to modify the constitution in other particulars, this provision was changed with the rest.

Mr. Brown. The senator was right when he asked to correct me to a "certain extent" only. According to his own statement he sat in the Legislature of his own State by the side of a Catholic, who sat there in open violation of the constitution of New Hampshire.

I have no disposition to misrepresent New Hampshire, but the senator's statement does not much better the case. He admits that until three years ago if a Catholic occupied a seat in the Legislature of New Hampshire he had to do it in violation of the constitution of New Hampshire, which I presume each member was sworn to support. Popular opinion did not enforce the constitution, the senator says, but still the constitution forbade that a Catholic be a member. I am glad it does not now forbid it.

While I think we are becoming more liberal as members of the different churches, and as citizens of States, I fear yet to trust too much to excited legislation under the lash of popular clamor.

A few years ago in my own State we all stood by slavery. No one then questioned that it was right. That the institution may in some cases have been abused, as every institution is abused, cannot be denied; but it was as little abused as any other could be. Slavery has been abolished: none of us desire to restore it. We stand now by the liberty and the rights of the former slave. Still there is an incident that I cannot help remembering during that transition stage. After the end of the war the reconstruction measures were passed. I had then a little taste of the rule that we now propose to apply to Utah. I stood by the polls, disfranchised and not permitted to vote, while my former slaves, emancipated, walked up and deposited their ballots. I made no issue. I accepted it. Why? Because I had no power to do anything; and I held that Georgia had seceded from the Union, and having seceded, and having been conquered, the conquering power had the right to dictate the terms. But the Mormons have not seceded from the Union. The Federal authorities might in my case possibly have made a religious test, and said that I should not hold any office because of my opinions. If my theory was right they could, because I believed we were out of the Union when we passed the ordinance of secession. But if their theory was correct, they had no right to prescribe such a religious test. I did not, however, make any point about the political test, because I believed we were obliged to acquiesce in the dictates of the conqueror. I mention these matters, not to stir up unkind feelings, but because they are part of the history, and point the danger of legislation of the character we are now proposing to apply to Utah.

This bill proposes to apply a religious test to the Mormons. I do not mean the part of it that would punish them for immorality, but in so far as it punishes the Mormon for his religious opinions it is a religious test applied. He believes that Joe Smith was a prophet as much as I believe that Jeremiah was a prophet; and while I think he is in an egregious error, I have no right to proscribe him because of his belief as long as he does not practice immorality. And I have no right to do more as a legislator than to prescribe rules

to punish him for his immoralities and leave him to the full enjoyment of his religious opinions, just as I claim the right to enjoy my own opinions. If we commence striking down any sect, however despised, or however unpopular, on account of opinion's sake, we do not know how soon the fires of Smithfield may be rekindled or the gallows of New England for witches again be erected, or when another Catholic convent will be burned down.

Mr. Edmunds. Or another colored school burned down.

Mr. Brown. Yes, I accept the amendment. As the senator from Vermont says, "or another colored school burned down," I trust it may not be. We do not know how long it will be before the clamor will be raised by the religious denominations of this country that no member of a church who holds the infallibility of the Pope or the doctrine of transubstantiation should hold office or vote. We do not know how long it may be before it would be said that no member of a church who believes in close communion and baptism by immersion as the only mode should vote or hold office in this country. You are treading on dangerous ground when you open this flood-gate anew. We have passed the period where there is for the present any clamor against any particular sect except as against the Mormons; but it seems there must be some periodical outcry against some denomination. Popular vengeance is now turned against the Mormons. When we are done with them I know not who will next be considered the proper subject of it.

Mr. President, I believe I have made about all the remarks that I care to make on this subject. In conclusion, I have to state that I cannot vote for the bill in its present shape. I cannot vote for any bill that will leave it with any Returning Board in Utah, with the pretext that they will have in this case, to proscribe any class of people there on account of their political or religious opinions. I am ready to vote for any bill that is necessary to punish the people of that Territory or any other for the practice of immorality, leaving it to the courts to decide whether they are guilty or not.

I therefore insist upon the amendment that I have already introduced. I was not in at the moment when the senator from Missouri [Mr. Vest] offered his amendment. I wish to offer two amendments more. Before I take my seat I will read them for information. In section 7—

Mr. Edmunds. You mean section 7 as it is in the print?

Mr. Brown. Yes, sir, as it is in print.

Mr. Edmunds. That would be now section 8.

Mr. Brown. In section 7 [8], line 1, after the word "bigamist," I shall move to insert the words "who has been legally convicted of practicing the same;" and after the word "woman" in line 2 to insert "and legally convicted of the same;" and after the word "section" in line 4 to insert "who has been legally convicted;" so that that part of the section would read:

"That no polygamist, bigamist, who has been legally convicted of practicing the same, or any person cohabiting with more than one woman, and legally convicted of the same, and no woman cohabiting with any of the persons described as aforesaid in this section, who has been legally convicted, in any Territory," &c.

With those amendments, and one other which I shall prepare, much of the objection that I have to the bill would be removed, though I think there are other very serious objections to it.

Upon a vote by yeas and nays Mr. Brown's amendment making it the duty of the President to appoint three of one party and two of the other, so as to give the Democrats two members of the board of five, was adopted by a majority of 2.

Mr. Brown then offered the following amendment, which was adopted:

"*Provided*, That said board of five persons shall not exclude any person,

otherwise eligible to vote, from the polls on account of any opinion such person may entertain on the subject of bigamy or polygamy; nor shall they refuse to count any such vote on account of the opinion of the person casting it on the subject of bigamy and polygamy."

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 6, 1882, ON BILL (S. NO. 71) TO ENFORCE TREATY STIPULATIONS RELATING TO CHINESE.—THE QUESTION, DOES THE BILL VIOLATE OUR SOLEMN OBLIGATIONS UNDER THE TREATY, DISCUSSED. THE PROBABLE CONSEQUENCES OF SUCH VIOLATION IN CONNECTION WITH OUR COMMERCE AND MISSIONARY OPERATIONS IN CHINA, ETC., CONSIDERED.

Mr. Brown said:

Mr. President: The problem that the senate now has to deal with is a very grave one. The importation of Chinese laborers into this country without limitation or restriction may promise much misfortune and evil in the future; I think it wise to restrict that importation; but while we restrict it, we should remember that it is the duty of the American Senate and the American Government to keep faith with every people and every government upon the face of the earth.

Some years since, we ratified what was known as the Burlingame treaty with China. That treaty caused very friendly relations to be established between the two governments, and in some measure between the peoples of the two governments. The result of that treaty and those friendly relations was a very rapid increase and extension of the commerce of this country with China. That commerce is most important to the people of the United States. It has long been the complaint of other nations that the Chinese Government did not permit intercourse with foreign powers. We have reached a period when that rule has been relaxed in China, and there is a vast trade there of immense value, whose fruits are to be gathered by commercial powers. Great Britain at present has much the better part of that trade. As a commercial power we are striving to compete with Great Britain and to build up our own trade there as much as possible.

In this state of the case it seems to me to be a most unfortunate time for us to do injustice to the people of China or to offend that government unnecessarily. Take, for instance, our manufacturing classes, and there is a wide field open there for the sale of their productions. I recollect not long since, in a conversation with one of the admirals of our navy, he gave me a very interesting account of a period of time spent by him in China. He spoke of the immensity of the future commerce of that country, of the quality of the cloths with which the Chinese are clad, and the point struck me that it was of very great importance to my section of the country that we should maintain friendly relations with the Chinese; because if we seek in the South to build up our infant manufacturing establishments of cotton, woolen, etc., and especially cotton, there is no market in the world so inviting to us for the class of goods we make as the market of China. It is said that the cloths of the Southern mills, where we have plenty of cotton, where the cloth is made honestly of good material and sent to China, have been the most popular there of any brands of cloth, because they are the best and the most durable. Our infant manufacturing establishments are not in condition to compete successfully with those of the world elsewhere in the production of the finer fabrics; and as we make a particular kind of cloth, or a

particular production of our looms, that is peculiarly adapted to that trade or to the demands of that empire with its immense numbers of people, it would be foolishness on our part to seek wantonly to offend those people, and destroy our influence and our commerce among them. Therefore there are substantial commercial reasons why we should deal justly and fairly and kindly and honestly by them.

These reasons may not be sufficient to justify us of the South in encouraging the unlimited importation of Chinamen to the detriment of other sections of the Union who protest against it. The people of the United States having become dissatisfied with the unbounded liberty of immigration into this country that was given by the Burlingame treaty, sought to get rid of it. We sent our plenipotentiaries to China to negotiate for a modification of the treaty. And he who reads the discussions between our plenipotentiaries and the Chinese Government will find that we were not more than a match for them in diplomacy. Whatever you may say of them, of their manners, their customs, their habits, you cannot say that they are not a cultivated people, to a great extent, and you cannot say that their statesmen do not have ability, and you cannot say that they do not comprehend these great questions. The negotiations referred to abundantly attest the fact of their ability, sagacity, and statesmanship, or else they show that we were very much wanting in these high qualities. At any rate, we cannot truthfully claim that we got the better of the correspondence.

But, without tracing the history of that negotiation, we reached the point where we concluded a treaty that has been ratified by that government and by our Government on this very question. Now, I want to refer to the provisions of that treaty, and contrast them for a few moments with this bill, and see whether we are in good faith carrying out the provisions of the treaty. Are we doing our duty, and are we before the civilized world acting in honest good faith toward China? Are we observing our treaty stipulations? Or are we in substance and spirit, if not in letter, unblushingly violating those solemn guaranties? If we are violating the compact, then we ought to modify this bill and keep within the provisions of the contract entered into between the high contracting parties, composed of the representatives of 400,000,000 Chinese and 50,000,000 Americans.

If the treaty will not permit the passage of such a bill as we desire to pass, then in good faith we should suspend action till we negotiate for a modification of that treaty, and not resort to an open, unjustifiable violation of it, or to a violation of the very spirit and essence of it. I propose, Mr. President, to read the four sections of that treaty. They are as follows:

ARTICLE I.—Whenever in the opinion of the Government of the United States the coming of Chinese laborers to the United States, or their residences therein, affects or threatens to affect the interests of that country, or to endanger the good order of the said country or of any locality within the territory thereof, the Government of China agrees that the Government of the United States may regulate, limit, or suspend such coming or residence, but may not absolutely prohibit it. The limitation or suspension shall be reasonable, and shall apply only to Chinese who may go to the United States as laborers, other classes not being included in the limitations. Legislation taken in regard to Chinese laborers will be of such a character only as is necessary to enforce the regulation, limitation, or suspension of immigration, and immigrants shall not be subject to personal maltreatment or abuse.

ARTICLE II.—Chinese subjects, whether proceeding to the United States as teachers, students, merchants, or from curiosity, together with their body and household servants, and Chinese laborers, who are now in the United States, shall be allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, immunities, and exemptions which are accorded to the citizens and subjects of the most favored nations.

ARTICLE III.—If Chinese laborers, or Chinese of any other class, now either per-

manently or temporarily residing in the territory of the United States, meet with ill treatment at the hands of any other persons, the Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty.

ARTICLE IV.—The high contracting powers having agreed upon the foregoing articles, whenever the Government of the United States shall adopt legislative measures in accordance therewith, such measures will be communicated to the Government of China. If the measures as enacted are found to work hardships upon the subjects of China the Chinese minister at Washington may bring the matter to the notice of the Secretary of State of the United States, who will consider the subject with him; and the Chinese foreign office may also bring the matter to the notice of the United States minister at Peking and consider the subject with him, to the end that mutual and unqualified benefit may result.

These are the provisions of the treaty. Does this bill propose in honest good faith to carry them out? We have reserved the right to regulate, limit, or suspend the coming of Chinese laborers, but the treaty is express and positive in its provisions that we shall not absolutely prohibit it, and that our legislation on this subject shall be reasonable. Now, does any senator here really believe when we were negotiating this treaty with the Emperor of China, that our representatives held out to him any such idea as that our first step in limitation and suspension would be an absolute inhibition, or prohibition of the importation of a single Chinese laborer for twenty years under severe legal penalties? Do you believe, senators, that the Chinese Government would have agreed to such a treaty if they had understood that this was our interpretation of it? Would they have ratified it? I think no senator in this Chamber can believe they would. Let it be borne in mind that this is the starting point on our part in the execution of the treaty. In carrying out the power of suspension of the coming of Chinese laborers that under certain circumstances as represented to them by our plenipotentiaries might become necessary on the part of this Government, the first step is an absolute prohibition for twenty years, with the heaviest penalties if a single one known as a laborer comes in within that period. It would be very natural for the Chinese Government to conclude that if this is the commencement in the execution of the treaty, they may look at the end of twenty years for a further prohibition for half a century, or ninety-nine years probably. No, Mr. President, they will not misunderstand it. That government is intelligent enough to know that this is not carrying out in good faith the provisions of the treaty. It may be that we can justify it according to the letter, but it is a mere sticking in the bark; it is not in accordance with the spirit or intent of the treaty.

But let it be remembered that that right of suspension, regulation, or limitation applies under the treaty only to Chinese laborers, and it is provided expressly in the treaty that it does not include any other class of Chinese except laborers. Now what as to the other classes of Chinese? We expressly stipulate and bind ourselves that they may go and come of their own free will and accord, and that they shall be accorded all the rights, privileges, immunities, and exemptions which are accorded to citizens and subjects of the most favored nation. How do we propose to carry out that provision of the treaty? We propose to enact a law that permits no one of them to come until he has first obtained the consent of the Government of China. That government has stipulated with us that its subjects not laborers shall go and come of their own free will and accord. We put the obstacle in the way that they shall go to the expense and trouble of getting the consent of their government in each individual case, before they shall come, and they shall then get a passport from the Government of China, and

that passport must be viséed by the United States diplomatic agent or consular agent in China, before they can go on board a vessel to start for the United States.

Supposing the Chinaman seeking to come is a teacher or a student, it is expressly stipulated that he shall go and come of his own free will and accord, with all the exemptions, immunities, and privileges of a citizen or subject of the most favored nation. But this bill says he shall neither go nor come of his own free will and accord; he shall not start here until he has obtained a passport from his own government, and had it properly viséed by our representative there. Then he can board the ship coming to our shores. When he reaches here the bill provides that the master of the ship shall not land until he has exhibited to the custom-house officer the list of the Chinamen on board, with a description of each. The custom-house officer must then go on board and examine each, and compare him with his passport, so as to establish his identity, and if he has lost his passport he cannot land. Then when he has landed he must be ready at all times to exhibit his passport to the proper authorities of the United States whenever legally demanded. If he is robbed of it or loses it, his failure to exhibit it subjects him to fine and imprisonment. The Secretary of the Treasury has then to open books, and every Chinaman in this country must be registered in those books. Then a certificate must be given each with a most accurate description of his person. Let me read that description:

"Entry shall be made in such books of the name of every such Chinese, and his proper signature, his place of birth, (giving town or district,) date of birth, last place of residence before coming to the United States, place of residence in the United States, if any, names and residences of his parents, if any, date and place of arrival in the United States, employment or business, height, and physical marks or peculiarities by which he may be identified. Every applicant for registration shall make oath to the facts stated in his registry, which oath shall be recorded in the book of registry. Collectors of customs and their deputies shall have power to administer and certify to all oaths under this act."

Bear in mind that the description must be made in the book opened by the secretary of the treasury, and it must be signed by the Chinese with his own signature. If he be in the condition of a very large number of the people of this country, not able to write his own name, though he may not come here as a laborer, and may be a man of wealth and come from curiosity, he would not comply with the law, because his own proper signature would not be upon the descriptive list made by him in the custom-house or upon his passport.

We set up a pretty high standard for the Chinaman. We say he must come prepared to write his own name, for that is what I understand by a man's own proper signature, which must be upon his passport, and upon the books in the custom-house, before he can stay here, and if he fails to comply with the law in any of these particulars, and he is found at large in the United States, he may be taken up and fined or imprisoned. Suppose after he lands he loses his passport; with great prejudice against himself and his race, unaccustomed to our language, our forms, and our tribunals, if he is taken up, how will he protect himself? He cannot do it, and he will be thrown into jail and fined. This would seem to be in violation of that provision of the treaty which says he may go and come of his own free will and accord. This bill says:

"And any Chinese who shall knowingly come into the United States contrary to the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$100, or

by imprisonment not exceeding one year, or both said punishments, in the discretion of the court."

If he is a teacher or a merchant or a Chinaman coming here from curiosity, he has a perfect right under this treaty to go and come at his own free will and accord. But if he be one of those characters, and he has not complied with everything prescribed in reference to passport, registration, descriptive list, and all that is set forth in this long ponderous bill and its numerous sections, he is to be seized and thrown into prison and fined, and remain there till he pay the fine; and that is what we call extending to him the same rights, privileges, immunities, and exemptions which are accorded to citizens and subjects of the most favored nation!

Do you, I ask, senators, by your law extend such denial of rights and privileges to the subjects even of the most unfavored nations? Do you extend such treatment to the subjects of any other nation? Is there any other nation on the globe whose subjects are compelled to comply with all these provisions before they can enter an American port? Is there any other nation on the globe whose subjects can be seized, tried, fined, and imprisoned for the non-compliance with provisions like those contained in this bill? If there is an instance I am not aware of it; and I ask any senator favoring this bill to point it out. Where is the law on our statute book that compels the subjects of Great Britain, France, Germany, Italy, or of any power in South America, or of any African chief in the darkest jungles of that benighted land to comply with any such terms under any such penalties before he can enter a port of the United States?

Mr. Farley. In the first place there is no treaty between the United States Government and those governments the senator mentions that such legislation may be had; but in this case there is a solemn treaty between the two governments, China and the United States, that such legislation may be had as will suspend the further immigration of that class of people, but not absolutely prohibit it.

Mr. Brown. I am sorry to have to take issue with my friend from California, but his statement is not correct.

Mr. Farley. It is very plain.

Mr. Brown. But it is not true. The treaty applies simply to laborers, and says distinctly it shall apply to no other class. I am talking about teachers and merchants and students, and those coming from curiosity, who are mentioned in the treaty, which expressly excepts them from its provisions. I say there is no such provision in the treaty as the senator refers to.

Mr. Farley. There is a provision in reference to laborers.

Mr. Brown. There is a provision in reference to laborers the senator says. I am not controverting that; I was not talking about that. I am talking about the provisions of the bill which would apply to other classes, where the treaty says distinctly and expressly that they are not included in its limitations.

I repeat, there is no such legislation unfavorable to the subjects of any other power on earth as we propose to apply to the subjects of China who are not laborers, and who are expressly protected by the treaty, and of whom it is said, in the treaty to which we have solemnly pledged our faith before the world, that they shall go and come of their own free will and accord. If this bill passes they cannot come into the territory of this Government without complying with all these cumbersome and burdensome provisions that I have mentioned. If the master of a ship brings one in, in accordance with the treaty, of his own free will and accord, without a compliance of these provisions, he is liable to be punished, and his ship is to be seized and forfeited. That is the privilege we propose to extend to

the Chinaman, of going and coming at his own free will and accord, with all the rights, privileges, and immunities of the subjects or citizens of the most favored nation! That is the kind of faith we propose to keep.

Mr. Miller, of California. Will the senator allow me to interrupt him?

Mr. Brown. Yes, sir.

Mr. Miller, of California. Does the senator think it would be within the treaty for a teacher or merchant belonging to the permitted class to show that he was one of the permitted class, to show that he was a teacher? In other words, would it conflict with the treaty if we required that he should identify himself? If not this, what other plan can be adopted by which he may be identified as belonging to the permitted class? The provisions of the bill are merely for the purpose of identification. They are in the interest of the classes enumerated who are permitted to come. If there were no provision of this sort in the bill, it would be left to the United States authorities to decide whether they were of the permitted classes or not. The bill leaves it for the Chinese Government to decide, and those persons whom the Chinese Government say are merchants or traders or teachers, and so on, and are not laborers, are permitted to come when they present the evidence that the Chinese Government gives them of that character.

Mr. Brown. The provisions of the bill look more to prohibition than identification. No unprejudiced mind can read it without being struck with its harshness. It breathes an unfriendly spirit from the enacting clause to the end of its last section. It violates, without the blush of shame, the express and undeniable provisions of a solemn treaty.

There is nothing in the treaty that requires of any Chinaman of the classes about which I have been speaking to bring any certificate of identification. It is expressly provided in the treaty that it shall apply to no other class except laborers. All other classes stand just where they did before the treaty as to their right to come, with the superadded provision in the treaty itself that they may go and come of their own free will and accord, with the rights, privileges, and immunities of citizens or subjects of the most favored nation. Do you propose any stringent legislation of this character for the identification of an Irishman or a German? The subjects of China who are not laborers are placed by treaty in exactly the same position of the Irishman or the German.

Mr. Miller, of California. If the senator will allow me, the treaty has an object in it. The object is to prevent the coming of laborers. There has to be some mode of deciding who are laborers and who are not laborers, who are teachers and who are not teachers; and that is what the treaty is for.

Mr. Brown. Yes, the treaty has an object, and so has this bill. The object of the bill is to throw such obstacles in the way as will, without regard to the treaty, greatly limit, if it does not prevent, all Chinese from coming to this country.

The senator stated when he was last up that that was left to the Chinese government. I do not think the senator will be quite content to leave it there. If you leave it for them to decide, they may give passports indiscriminately to everybody who wants to come. Is that the test you are willing to apply in determining whether they are laborers? If you make the Chinese government the judge, you must be bound by their judgment, and then you have no right to complain of anybody who comes, but you must admit that all who come under a passport with registration, etc., are entitled under the treaty to come.

Mr. Miller, of California. Unless it is clearly shown that it was done in fraud of the treaty with the Chinese government.

Mr. Brown. Then what sort of tribunal would you have to try the question of fraud?

Mr. Miller, of California. The passports would be viséd by our own consul or by our diplomatic representative in China. We would leave it to that authority.

Mr. Brown. I reply to the senator that our representative there is not supposed to know all the subjects of China, whether they are of the laboring class or to what class they belong.

Mr. Miller, of California. They would have the power to investigate.

Mr. Brown. We have made no provision in the treaty for any such investigation on their part there. We have agreed that all Chinese except laborers may go and come of their own free will.

Mr. Hoar. Will the senator from Georgia allow me to make a suggestion in connection with what he is saying?

Mr. Brown. Yes, sir; I have no objection, though I wish to conclude as soon as possible.

Mr. Hoar. I thought it might perhaps call attention to the point the senator was making, if he will permit me, or I will make it afterward.

Mr. Brown. Certainly; I yield to any senator who wishes to interrupt me.

Mr. Hoar. The point which the senator from Georgia is making is very strongly confirmed by the fact that the bill as originally drawn undertook to enforce the treaty to that extent. The first section of the original bill, as the senator will find on the paper which he has before him, provides—

"That all subjects or citizens of China who are students coming to the United States for purposes of education, merchants or traders engaged in lawful commerce, travellers, etc., may lawfully enter, remain in, or pass through the United States upon being identified as hereinafter provided."

That was the original proposition, which was rejected by the Committee on Foreign Relations, and instead of that comes the present bill simply prohibiting and punishing certain persons who are not found to be so and so, not repeating the authority which the treaty gives them. It shows that it was the object of the framers of the bill to make a much greater difficulty.

Mr. Teller. The framers of the bill or the committee?

Mr. Hoar. Those who reported the bill finally propose the amendment.

Mr. Teller. The committee.

Mr. Hoar. The senator from Georgia will excuse me for the interruption.

Mr. Brown. There is no provision in the treaty requiring the Emperor of China to decide whether a subject of his leaving the shores of China for this country is a laborer, or whether he belongs to any other class. There is no provision in the treaty that provides for our consul or diplomatic representative in China determining that question.

Mr. Miller, of California. Is there any hardship that it shall be left to him to decide?

Mr. Brown. Yes; it would be a very great hardship. If our representative were acting there under the prejudice that most people here act under, it would be a one-sided tribunal to try the case.

Mr. Miller, of California. I am speaking of the Chinese government. I ask is it a hardship on the Chinese government to decide?

Mr. Brown. When the Chinese government has provided by treaty that its subjects shall come and go at their pleasure, you have no right to ask it of the Chinese government. Nor have you a right to impose the burden on a Chinese wishing to come here, of going a thousand miles to Peking to get a passport.

Mr. Teller. I should like to make an inquiry of the senator, if he will allow me?

Mr. Brown. I am willing to be interrupted by all senators.

Mr. Teller. That is not the proper statement. They have said that a cer-

tain class should not come here if we object to them. Is it unreasonable that we should designate the class when we leave it to them to make *prima facie* evidence of it? Certainly it is very liberal, it seems to me.

Mr. Brown. The senators all make the point that the treaty authorizes us to regulate, limit, and suspend the coming of laborers. I am not discussing that part of the subject. I am speaking of those who are not laborers.

Mr. Miller, of California. How will you determine that they are not laborers.

Mr. Brown. You will probably determine that best when they get here. If they come here, and it turns out that they are simply laborers, and you can establish that point and show that they came in violation of law and of the treaty, you can do as you propose in this bill to do by any of them who do not bring a passport and go through the long routine of registration and certificates. You can provide a way to have them sent out of the country; but you have no right under the treaty, to prevent the classes who have a right to come from coming because some other classes are prohibited from coming.

Take this instance: Suppose a Chinese teacher and students are in the republic of Mexico to-day. They are subjects of the Government of China, and they desire to come into the United States. They are in sight of our boundary line. Under this act, if it is passed, although the treaty says they may come and go at pleasure, they must first go home to China and get a passport and sail back again before they can enter our limits, though the treaty says there shall be no such restriction upon them. Is that keeping faith with the Government of China. Is there a senator here who can say that that is within the spirit and meaning of this treaty? I apprehend not—not one.

Have you ever heard of an instance where an Irishman or a German, before he could come to this country, must get a passport at home, bring it here and have it registered, carry it with him everywhere he goes, show it to our officers when required, present it if he wants to go back upon a visit to the old country again, and bring it again when he returns? Have they ever been cumbered with any such provision as this? Never in any case. No; they are subjects of favored nations; they are among the most favored nations; and when the Irishman and German come here they soon have the ballot in their hands, and then they are very good people, and politicians and statesmen and everybody respects them; but the Chinaman comes in and we raise the clamor that he must not enter till he has been cumbered with all these hindrances, although we have expressly pledged our faith to China that he shall be put upon the same terms and have the same exemptions, immunities, and privileges which the Irishman or the German, in the case supposed has, or which anybody else has.

We have always claimed the right for the citizens and subjects of other nations to come to this country and find homes in our vast territory, to be naturalized and made citizens; and when so naturalized we have claimed that they are absolved from further allegiance to the country of their nativity. Great Britain denied this principle in 1812 and claimed the right to board our ships on the ocean, to look after her subjects, or those who had been such and were then in our service. We denied her right, and fought the war of 1812 in vindication of the right of expatriation by the subjects of any government who might choose to remove to and become citizens of this country. While I do not think it would be wise to naturalize many Chinese and make them citizens, under all the circumstances, I see no reason why we should not stand by the doctrine of the right of expatriation at least to the extent of protecting all the rights possessed by Chinese subjects under the

treaty of 1881. They do not claim the right of naturalization under that treaty.

Mr. Teller. I should like to ask the senator a question. He has put a pretty lengthy one to the entire senate. Does the senator doubt our right to exact just such a thing as he has suggested, a passport, from every man who comes to this country, if we see fit to exact it?

Mr. Brown. No, I do not; but I deny your right under this treaty to require it of the Chinese unless you require it of other people, because you have pledged your honor before the civilized world that you would put the Chinaman upon the terms of the citizens and subjects of the most favored nation. Whenever you put that burden on the subjects of the most favored nation you can without violation of your faith to China place it upon the Chinaman. Till then how do you justify it? I do not question your power to apply it to all immigrants, but I do deny that you treat all alike as you pledged yourselves to do when you apply it to the Chinaman and apply it to nobody else on the face of the earth. I say when we do that we do not keep faith.

I should like to hear any senator explain how it is that we keep faith when we throw all these hindrances in the way of the Chinaman who is coming, under the provisions of this treaty, and do not put them upon the immigrant from any other power or nation on earth. Do you permit them to go and come of their own free will and accord, and do you accord to them all the rights, privileges, immunities, and exemptions which are accorded to citizens and subjects of the most favored nations? Do you? I would be glad to have an answer to that question. I have been interrupted several times, and now I invite and court the interruption. Let any senator on this floor who undertakes to defend this bill now rise and say that this bill does not violate this provision of the treaty with China. Let him say, and defend his position if he can, that this bill puts Chinese not laborers on the same terms or in the same position as the subjects of other favored nations. I pause for the interruption. Defend the position if you can.

Mr. Farley. How would you discriminate between them unless there was a provision of that sort? You might as well undertake to discriminate between the flies on a bee-gum on a summer's day. You cannot do it unless you have a provision of that sort.

Mr. Brown. That is no answer. It is simply saying that to identify a person prohibited by the treaty, you must, from necessity, place a burden on a person not prohibited, and from which the treaty expressly exempts him, till you have placed it on the subjects of the most favored nations; which you do not pretend has been done, and which you do not propose to do. The reason you give may be a very good one in favor of an application to the Emperor of China for a modification of this treaty; but it is no reply to the charge of violation of the treaty as it now exists. And I again assert that no such reply will or can successfully be made.

Mr. Farley. They have modified it once.

Mr. Brown. As the senator from California says, they have modified it once; and we had a pretty hard time in getting the modification we have already procured to the treaty; but when we have accepted such a modification and agreed to be bound by it, and pledged our faith to it, let us in common honesty keep faith until it is again modified.

I know we are not bound to stand by a treaty perpetually. We can give notice that we will not be bound by it, and we can abrogate it, after proper notice, without the consent of the Chinese Government or any other government. But we risk the chances of war; we risk the chances of non-intercourse; we risk the destruction of our trade and commerce with China when-

ever we do it. If we are willing to take the risks, we have the power to annul any treaty that we have entered into. But we must take the consequences. Now what would be the consequence in this case?

Mr. Teller. I should like to ask the senator a question. Is the senator aware that he might go to China now, as a senator of the United States, and that a great portion of China would be closed to him; that he could not get into it even with a passport? When he talks about the danger of offending that nation he should remember that they do not give to any class of our people any such freedom there as he demands for the Chinese here.

Mr. Brown. Yes; and I will inform the senator that the treaty between China and this Government does not give it to us. We got no such provision in our favor in the treaty. That again may be a good reason why the treaty needs modification. The Chinamen really were too shrewd for our statesmen, as it was avowed on my left in a speech this morning. They got the better of the treaty; but is that a reason why we should refuse to keep faith and be bound by it while it is in existence? The manly way is to seek its modification, and if that cannot be done, abide by it while it is in force and abrogate it when we must, and take the consequences.

There is another provision in the bill to which I want to refer. The provision of the treaty I have just mentioned applies as well to laborers who were at the time of the ratification of the treaty in the United States as it does to the other classes I have mentioned. They too are guaranteed the right to go and come at pleasure, of their own free will and accord. Do we propose by this legislation to carry out those provisions in good faith? Do we propose to have any regard to our own honor about it? No; we propose that they shall not go and come according to their own free will and accord, but that they must first go and register at the custom-house before they can go back to that country or go anywhere else, and when they return they must have their registration certificate or they cannot come in. If it should get lost or be burned during their absence they could not enter. The provision in the treaty that they may come and go of their own free will and accord is simply violated. I can use no milder term.

It was said by the senator from Colorado [Mr. Teller] in his last remark that an American could not go into certain parts of China even with a passport. That is true; and for a long time he could go into no part of China even with a passport. It has been a very hard struggle for the different Christian churches of this country and Great Britain and other parts of the world to get admission into the Chinese territory for our missionaries of the cross. Better relations have grown up between this country and China. They are now admitted into a large part of the empire; they have privileges that they could not have a few years ago. Suppose in this state of things we now openly violate the treaty that we have made with China and exclude her subjects from coming here as expressly provided by the treaty that they may come, would we be astonished if an edict should go forth from the Chinese throne that every missionary and every merchant of the United States shall be driven from the country? Is this what the American public seeks? Is this what the Christian people of this country desire?

But it has been said that you cannot teach them Christianity; that they will not assimilate with the people of this country. Treat the subjects of any other government on earth as you have treated the Chinese in this country, and you will find they will not assimilate. The people who hunt them down, who throw every obstacle in the way of their progress, who enact penal laws in every manner possible for their punishment for offences that you would not call crimes in others, should not expect them to assimilate. A people thus treated could not be expected to feel inclined to assimilate.

I remember twenty odd years ago Rev. Dr. Stiles, of the Presbyterian Church of the United States, in one of their general assemblies, in speaking of the Africans in this country, used in substance this remark, for I cannot quote his exact language: "The Southern church holds up to the gaze of heaven and earth more converted heathen than can be found in all the missionary fields of all the churches in heathen lands." How is it that six and a half million of Africans to-day on this continent and within the bounds of this Government are civilized, and a large number of them are Christianized? Because they were brought here into contact with civilization and Christianity. Our missionaries have gone to Africa, to the dark jungles from whence they came, and have tried to teach Christianity there; and what has been the success? Feeble; amounting to nothing as compared with the results where they were here among us. They were brought here as slaves, it is true, and they were in some instances maltreated; but the relations between the two races had become very cordial before the emancipation, and the result was their Christianization. Take the Chinaman by the hand and treat him as you now treat the African, and you will find him assimilate much more readily than he does with your hand turned against him, with your legislation turned against him, with your penal statutes directed against him, with no encouragement offered to him, but every possible discouragement.

No, the Chinaman does not assimilate. We do not permit him to assimilate. We offer him no inducement to assimilate; and yet with all this oppression, and I may say tyranny over him, the Christian churches even in California are planting the gospel of our Lord Jesus Christ among them. I do not know what the will of Providence is upon this question. It may be that He has directed these people to our shores as He did the African people under circumstances of hardship and oppression, that they may become Christianized. If we cannot by proper treatment Christianize them here when brought into constant contact and association with a Christian people, how do you expect our missionaries to do it in the Chinese territory where everything bears the other way?

I believe in the doctrines of Christianity. I believe when it was said, "Go, teach all nations," that it was meant. When it was said in another place, "Go ye into all the world and preach the Gospel to every creature." I believe it was intended; and I believe the day will come when it will triumph in every nation; until the millennial period will be reached; and this may be one of the means. I know not what are the decrees of Providence upon this subject, but certainly there is more prospect of Christianizing the Chinese by proper treatment when they are here in contact with us than there is by sending missionaries to their country. When we violate faith with the government of that country they will naturally ask, "Is this the character of the Christianity you send us? Is this the way you keep faith? Is this your estimate of moral duty? You make a compact with us, and you pay no attention to the obligation of your compact." I do not think this is the way to Christianize or civilize the Chinese. If we want to convert them to our Christianity and our civilization we must show them that we practice a higher morality than this. In my opinion the passage of this act in this shape would be a great obstruction to the cause of Christianity in China for a long time to come.

I said that churches had already been planted among them in California. Less than two years ago the Southern Baptist convention appointed a missionary to San Francisco to teach the Gospel to that people. He has been laboring with them but a short period, and he now has a small church of Chinamen. Other denominations of Christians also have churches there.

Under all the disadvantages and all the disrespect shown them there, the Gospel still makes its impression upon them; and if we should treat them differently we do not know how fast, by getting into their confidence and showing a disposition to do justice, the Gospel would spread among them.

But it is said that there is such an immense number of them, if we permit them to come here without restraint, they will overrun the whole country. There have been about thirty-two years when there has been no such restraint. The treaty of Guadalupe Hidalgo was ratified, I believe, in 1848. From that time until this, so far as I know or recollect, there has been no law that prohibited the importation. What number have they reached in thirty-two years? The senator from Massachusetts [Mr. Hoar] in his able speech told us, the other day, that, according to the last census, there were about 108,000 Chinese in this country, about 76,000 of those in California. Divide that into thirty years, and what has been the average each year? Between three and four thousand immigrants a year. Some years it has gone above that, some years it has fallen below. Probably there has been a larger number of immigrants, but to speak accurately, for a great many have gone back, that is the number remaining here to overrun this immense continent and subjugate the Anglo-Saxons in the United States. In thirty-two years they have succeeded in having 108,000; but as it is said the census did not embrace all, put it at 150,000, if you please, and it has been a very small importation as compared with that from other countries. Take the last year, and the reports show that there were in round numbers 669,000 immigrants into this country, nearly three-quarters of a million. How many of them were Chinamen? A mere fractional part; and last year, bear in mind, they were laboring under the stimulus that this treaty would soon be in the way, and it was better to hurry up if any of them expected to get in as laborers. Even then, I believe, some 20,000 Chinamen is all that it is claimed came to this country out of 669,000 immigrants during the year.

No, Mr. President, there is nothing in that point. There is no danger of the Chinese race, or any other eastern race, overrunning the Anglo-Saxon or any white race in Europe or America. The tide of emigration has been westward, and still westward, since the days of the Goths and Vandals. Yes, it runs westward. The Chinese empire is in a great deal more danger to-day of being overrun and subverted by Yankee energy and Yankee enterprise on the one side, and the empire of Russia on the other, and England on the ocean, than this country is of being overrun by Chinamen. If we can get a treaty there as liberal as we can by acting in good faith, at no distant day they will admit our people without restraint, and then we may expect our merchants and manufacturers of various classes to go, and we will soon have thousands, tens of thousands, hundreds of thousands of our people in China. It is a vast field opening to commerce; it is a vast field opening to manufactures and to railroads, and to every other enterprise, to steamships, to telegraphs, to telephones, to all the inventions of the age. It is a wide field open for us. No people on earth are more interested in that country than the people of the United States.

As I said in the outset, Great Britain has the lead there now. If we keep faith with Chinamen and the Chinese government, and act as we ought to act as a rising agricultural and manufacturing power, being a great silver-producing country as we are, with our great silver mines, and they being monometallists in silver, and with our manufacturing establishments making just the fabrics they need, we ought to build up a boundless trade there, and it ought to be a great field for white men's energy and thrift and gain. I do not think, then, we would act wisely to violate good faith with these people.

We have made vast expenditures to enable us to reach the immense future commerce of China, Japan, and other Asiatic nations. We have as good as donated sixty-six millions of dollars, which, with interest, now amounts to about one hundred millions of dollars, and land grants covering a territory larger than the republic of France or the German empire, to open a great highway by railroad to the commerce of the East, which brings that commerce to our doors by a route thousands of miles nearer than it can be reached by European nations. In addition to this, companies of capitalists have constructed a southern line of railroad across the continent, to put the southern section of the Union in closer relations with the Eastern powers. And still another great line is being rapidly pressed forward, known as the Northern Pacific Road. In addition to all this we have put costly lines of steamers on the Pacific ocean. Thus we have already expended hundreds of millions of dollars to open the highways of commerce to the Eastern empires. We produce about 60 per cent. of the cotton of the world. The 400,000,000 of people in the Chinese empire use cotton almost exclusively for clothing. The cotton goods made by our mills meet their requirements better than those made by the mills of any other country. This alone, to say nothing of all the other commerce between the two countries, is to be a vast item especially important to the Southern States of this Union.

By the Burlingame treaty we had conciliated the government and people of China, and they have shown a disposition to cultivate the most friendly relations with us; and to engage in an active commerce which will be mutually beneficial, and which may soon grow to hundreds of millions a year. In view of all these important considerations, are we prepared to sacrifice the investments we have made, and the vast advantages opening to us for the future, by giving unnecessary and unjustifiable offence to China by a flagrant violation of our treaty stipulations with that government, when there is not even a plausible pretext for the act, as we can amply protect ourselves against the evils of any dangerous influx of Chinese laborers, and still keep within both the letter and spirit of the treaty. The commerce between this country and China is now rapidly on the increase.

In this connection I want to read from an answer to a telegram which I sent to the Chief of the Bureau of Statistics. I inquired of him what was the per cent. of increase in our commerce with the Chinese people since the Burlingame treaty. He states in reply that at the time of the adoption of the treaty it was \$15,365,013. During the year ending June 30, 1881, it was \$27,765,409, an increase almost doubling our commerce with China in thirteen years. Suppose we act in bad faith in this matter and offend that people and their government, where we are in the wrong, may we expect this progression of increase to go forward as it has gone since the Burlingame treaty was ratified? No; we have much more reason to suppose it will go backward, and that we will have to yield that most inviting field to England, and France, and other commercial nations, who will deal justly by them and keep faith with them.

It has been objected, however, that the Chinamen in this country work for wages lower than our people can afford to work, and that we cannot on that account permit them to come. I state very frankly that I do not want to introduce a class of people here to interfere with the labor of this country, or to reduce labor to a lower standard. I have always stood firmly by the laboring classes. I oppose every measure that looks to the reduction of the price of labor. But when you look at the statistics and statements that we read in the newspapers, I believe about the highest labor now on the continent is found in the State of California. I think the senator from Massachusetts [Mr. Hoar] demonstrated that the other day in his speech. Our

laborers there get better wages, when they are willing to work, than they get probably in any other State in the Union. This does not look as if Chinese labor there has ruined our working people.

But there is another insuperable objection raised. It is said the Chinese come here not to stay. It is not very consistent with the other proposition, that they are going to overrun the continent, to state that they work and get our money and then go back home again. If they work so low that nobody else can labor for half as small a price as they do, for every dollar they carry back they leave two dollars' worth of labor here. That does not destroy the country much; that does not injure the United States a great deal. If we can keep them out of conflict with other laborers—and they have been mostly engaged in railroad building and other pursuits where you could scarcely get American laborers, in the wilderness—if they do that sort of labor for us which we cannot get our people to do, and do it at half what the labor is worth, and then leave with the money, we keep in improvements two dollars for every one they take away, and our civilization has not been injured. So that point, I think, weighs but little.

I believe, Mr. President, I have gone substantially over the ground I desired to occupy in this case. As I stated in the outset, I am willing to vote for a bill to restrict, limit, and for a reasonable time suspend, in accordance with the spirit and provisions of this treaty, the importations of Chinese laborers. I do not think twenty years a reasonable period. I do not think it in conformity to the spirit and meaning of the treaty. I do think it a violation of the very spirit of the treaty. Therefore on that point I shall vote for the amendment of the senator from Kansas [Mr. Ingalls], which proposes to limit it to ten years. I think that is as far as the Chinese Government could permit us to go with the belief that we were acting in good faith. And to show how careful they were on this subject, they have provided in the treaty that any legislation we shall enact on this point is to be submitted to them and become the subject of negotiation if it is not reasonable. We cannot expect they will say that this is within the reason and spirit of the treaty. If they say it is not, and claim further concessions we shall probably then be too proud to make them, for we shall have acted and will not like to go back on our action, and the result will probably be disastrous to our intercourse and our commerce with that empire.

If we commence by a shorter period of limitation or suspension, and the Government of China is satisfied with it, and we still believe at the end of ten years that the importation of Chinese laborers is a positive evil, we can re-enact it; but I do not think it is wise or just, or that we keep faith when we say we will commence by an absolute inhibition for twenty years under heavy penalties. If that is the letter of the treaty it is clearly not the spirit of it, and as statesmen, most of us lawyers, knowing something of the rules of construction, it is our duty to deal fairly and construe this instrument as we do other legal documents, and then to carry out faithfully its provisions until we have changed them or have given notice that we will no longer be bound by the treaty.

I know I do not occupy the popular side of this question. In a somewhat protracted political career it has frequently been my misfortune to differ with majorities, and to stand in the current without flinching, while the surging waves of popular disapproval rolled over me and lashed me with their fury. And I have afterward lived to see the storm subside, the elements become calm and tranquil, and to hear the plaudit of well done, for the act that provoked the storm.

The statesman who adopts the rule of pandering to popular opinion may float peacefully with the current for the time, but he will soon be called to

answer at the same bar of public opinion for acts which at the time of their performance were hailed with delight. My rule is to inquire: Is it right? and if right to move forward without fear. I would rather be right than popular. I would rather have the approval of my own conscience than the plaudits of the multitude, or the temporary approval of those who are controlled by their passions and not by their reason and their judgment.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, MARCH 27, 1882, ON THE TARIFF COMMISSION BILL, IN WHICH FREE TRADE, AND A TARIFF FOR PROTECTION, AND A TARIFF FOR REVENUE WITH INCIDENTAL PROTECTION ARE DISCUSSED, ALSO THE INTEREST WHICH PLANTERS, FARMERS, HERDSMEN, WOOL-GROWERS, FRUIT-GROWERS, ETC., HAVE IN A TARIFF FOR REVENUE WITH INCIDENTAL PROTECTION.

On the bill (S. No. 22) to provide for the appointment of a commission to investigate the question of the tariff and internal-revenue laws.

Mr. Brown said:

Mr. President: I had not expected to say anything whatever on the pending bill. My throat is in such a condition to-day that I cannot speak with much comfort. However, as the time agreed on for the discussion is limited, and other senators want to occupy the floor to-morrow, I will go on and submit a few remarks at this hour.

I am not vain enough to suppose I can produce anything new on this great question. It was discussed by the great men who laid the foundations of this Government. In 1816 and for many years after that date it was discussed by such men as Calhoun, Clay, and Webster. It has since been discussed again and again by the first men of this country. The principles of each conflicting theory are well understood. I have listened with great interest to the able debate which has been conducted during this session, and I have heard but little that I could say was entirely new. It has been an able presentation of facts and arguments heretofore produced by the great statesmen who have already exhausted the subject and left nothing new to be said by those of the present time.

I do not, therefore, propose to enter upon the discussion of the principles involved either in free trade or protection, but I rose chiefly to say that in my opinion this contest is more a war of words than of ideas. I do not mean by that that very strong ideas have not been produced on both sides, that very forcible arguments have not been brought forth on this floor, because it is true that there have been many good ideas submitted on both sides. If they lacked novelty that did not detract from their force.

I notice by turning to the report of the Secretary of the Treasury that there were collected during the last fiscal year \$198,159,676.02 on imports. In round numbers, I will call it \$200,000,000 per annum. How do we propose in future to raise this sum, if we cannot dispense with it? As I understand, it is not proposed to lessen to any great extent the appropriations which we have to make this year. We still have to pay interest upon the public debt, and to provide a proper sinking fund upon the debt each year, looking to an extinction of it after a reasonable time. We still expect to pay a very large sum each year for pensions. We expect to appropriate large sums each year for rivers and harbors, for the Army and Navy, for the Military and Naval Academies, for the civil establishment, for pensions and various other expenditures. I confess that while I would be very happy to see a large re-

duction in the public expenditures, I do not see that the way is very clear for it at this time. I do not believe we are likely to make the appropriation at this session, judging from the appropriation bills I have already seen, much less than they were for the present fiscal year. A very large additional sum is asked for the improvement of the Mississippi River, and the present terrible destruction of property by the great freshet would seem to justify and indeed to require it. Thus you must raise \$200,000,000 by tariff for the current year.

How do you propose to collect this \$200,000,000? There are but two modes that I am aware of. One is a direct tax upon the people, the other is collect it upon imports. Which will we choose? I have heard no senator on this side who has discussed what might be termed the free-trade side of the question propose to raise it by a direct tax. What would it amount to? We have thirty-eight States. Take my own State, Georgia; say it is an average State. If \$200,000,000 should be raised by direct taxation, Georgia must raise each year in addition to what is now raised, by the collection of internal revenue and State tax, a sum amounting to over \$5,000,000. Her people must submit to the present State tax, school tax, county tax, corporate tax, and all the taxes now collected which they consider burdensome, and we must add to that, if we are to collect it by a direct tax, more than \$5,000,000 a year, which would be about four times as much as we now raise by taxation added. I take it for granted no senator on this floor representing any one of the States will advocate that course for the collection of all our Federal revenue. If he does, my opinion is he will find a large proportion of his constituents differing in opinion with him. Then how do we propose to collect it? We must collect it as heretofore, by levying a tariff upon imports. The addition of about five and a quarter millions a year to the internal revenue paid in cash by the people of Georgia for Federal purposes would knock all the poetry out of the able free-trade speeches to which we have listened with so much interest.

Doubtless the same would be true in all other States. Our people prefer a tariff to direct taxes. They are willing that those who buy the most imported goods pay the most tax.

But I see that we not only collect in round numbers \$200,000,000 a year on imports, but we also collect \$135,000,000 per annum at present by direct tax laid upon certain articles, as whiskey, tobacco, etc. That tax I suppose could not properly at present be collected upon imports, and yet the policy and theory of this Government thus far has been, excepting war measures, to collect the entire revenues by a tax upon imports. This I believe to be the true policy. I believe it was so from the foundation of the Government down to the period of the war of 1812. Then, as I understand it, we had an internal-revenue tax, something after the order of that we have growing out of the late unfortunate civil war; but the country got rid of it at no late period after the war had terminated. Then our fathers of both political parties, Whig and Democrat, advocated alike the collection of the revenues for the support of the Government by a tariff upon imports.

I consider the present internal-revenue system an excrescence upon the body-politic. So was that of the war of 1812. They were war measures. They were justifiable in public estimation upon no other theory. I wish to see the present internal-revenue system gotten rid of, so that we may return to the old rule of the fathers as soon as the expenditures can be reduced to a point where we can, without too heavy an imposition of tariff upon imported goods, collect the entire money that the Government must raise annually by a tariff upon imports, as advocated and practiced, except in time of war, by Washington, Jefferson, Adams, Madison, Monroe, Jackson, Calhoun, Clay,

Webster, and all the great statesmen of this country. It is safe to heed the counsels and follow the example of such men. The sooner we return to the old beaten track trod by them the better.

I have introduced no bill at present for that purpose, because I see that we cannot probably at this time raise the amount that it is necessary to have as revenue upon imports alone, but I trust the day is not far distant when that can be done.

In view of that fact and in view of the large increase in the population of this country, its increased resources of every character, the necessarily increased expenditures that we have to make every year, I do not see the period ahead when it will be very important to discuss the question whether we should collect a tax on imports for revenue only or for protection. You will be obliged to collect more than \$200,000,000 a year probably for all the future. It was last year over \$360,000,000, and \$333,000,000 of it was on imports and by the internal-revenue laws. If you have to collect that, and if it is not likely in future ever to come below \$250,000,000 or \$300,000,000 a year, there need be very little dispute about whether the tariff is to be laid for revenue only or for protection. It must be laid and collected, no matter what you call it. If the tariff is properly distributed among the different articles imported in every instance there will be a tariff affording as much protection probably as such interest will need.

If I recollect correctly the earliest tariff imposed in this country expressed on the face of it or in the title of the act that it was to be an act to raise revenue and for the protection of manufacturing establishments. I think it was necessary at that time, but the protection has been enjoyed for so long a period and our manufacturing establishments have so strengthened themselves that they are not in the condition they then were. It is not now necessary, and probably will not be necessary in the future, to consider seriously the question whether we must lay a tax on imports for the protection of our home industries. As long as we have to collect from \$200,000,000 to \$300,000,000 a year for revenue that question will not be an important one. It may be very important, and it is now, that the \$200,000,000 or \$300,000,000 a year shall be distributed in such manner as to protect incidentally as far as possible all our home industries and all our American productions, adjusting it so as to do as much good as possible to all and as little harm as possible to any.

I confess I take a medium position here. I am neither a free-trade man, willing to collect all the money we have to raise by direct tax upon the people, nor am I willing to lay a tax simply for protection when the Government does not need the money. But if I had it in my power I would raise all the money necessary to support the Government by tariff, and I would so adjust the tariff which we have to raise to meet the necessary expenses of the Government as to afford as far as possible an incidental protection to home industry and to American productions. It seems to me that is common sense, and that patriotism and statesmanship alike require it. We of the South are more interested in incidental protection than the manufacturers of the North. We are now in our infancy; they have reached nearly to mature manhood. Many of them are now able to take care of themselves. We are not. They have skilled labor and the most improved machinery; we have little skilled labor and much of our machinery is not the best.

Some of the senators whose arguments seem to look in the direction of free trade point out to the planters and farmers of this country the advantages of free trade, and tell them that as the law now stands they pay a heavy per cent. on the imported goods purchased by them, and grow eloquent about the amount of money they would save on the goods purchased by them

if there were no tariff. But I have noticed that no one of them has told the people how much direct tax they would be compelled to pay on their lands and all their other property to raise the \$200,000,000 annually which is necessary to meet the demands on the Federal Treasury and which must be raised by a direct tax if it is not collected by a tariff. They forget to tell the people of Georgia, Tennessee, Kentucky, Alabama, and other States how much of the \$200,000,000 direct tax would fall to their share if there were no tax on imports. There are planters in Georgia, worth ten or twenty thousand dollars, who live so nearly within themselves that they pay very little toward the support of the Federal Government, as they buy very little of the imported goods that are taxed. Their coffee and tea are on the free list, and their part of the burden is very light. Others who purchase largely of fine clothes and luxuries pay most of the tax. But if we abolish the tariff and raise the money by direct tax, the property of those who live within their means and live on the production of their farms will be taxed more than many others who purchase much more largely of luxuries or imported goods, because they have more property to be taxed than those have who live more extravagantly and own less property. This very independent class of substantial planters would for the first time feel the weight of the burden when called on annually to pay in cash five times as much direct tax as they now pay.

There are gentlemen of great ability who believe that the true theory is to lay tax on imports with a view to the collection of revenue only. Then, why is it that we find coffee and tea upon the free list? I see by looking at the last official report that there were during the year 1881 imported free into this country over \$56,000,000 worth of coffee; the year before that over \$60,000,000 worth. I see also that during the year 1881 more than \$21,000,000 worth of tea was imported free into this country. If we are laying a tariff for revenue only, why not put it heavily upon tea and coffee? The people of this country did not dispense with the use of whiskey and tobacco because you doubled the price by the tax on them; and if you are after revenue only you may put 100 per cent. of the value upon tea and coffee and there will still be almost as large a quantity used as there now is. I advocate no such thing. I do not ask that coffee be taken off the free list, I only say the people of this country drink it, and intend to continue to drink it, and you can put no reasonable tax upon it that will cause them to cease the use of it. I would not advocate the change, but I ask my friends who advocate a tariff for revenue only, without any regard to incidental protection to home industry, why not put a very heavy tax upon these articles that nobody doubts would be paid? If revenue is what you want to raise, you can raise forty millions on coffee. If you want revenue without regard to incidental protection, tea will pay you many millions of dollars if you will put a tariff upon it and not let it stand upon the free list.

I take it when we sit down and undertake to draw a tariff bill and undertake to pass it through the senate, placing twenty-five per cent. or fifty per cent. upon tea and coffee, which will bear it for revenue only, it would find few advocates. Yet why not put a tariff upon them if we are not afraid of the people, and if we go for revenue only, and prefer not to give incidental protection to home industry and home productions? A tariff on tea and coffee protects no American industry, and if we are opposed to the incidental protection of American industry and want to so levy the tax, as simply to raise revenue, then why not put it on tea and coffee? We raise no tea in this country worth mentioning; we raise no coffee here; yet we bring in of these articles a very large amount of merchandise free of tax, because everybody uses them, and statesmen are not willing to meet the popular clamor

that would be raised by putting a heavy tax upon them. At present we permit these articles to come in free, and I think correctly, because the people of this country so desire it, and the poorer classes are better able to use them. I think instead of putting the tax upon tea and coffee, that protects no American industry, it is better that we put it on other things which shall protect American industry. Therefore I am not finding fault with the law as it now stands in reference to tea and coffee. Let the people have them as cheap as possible. I am simply saying that if we are for revenue only we are then inconsistent in not imposing a heavy tax upon those articles.

To illustrate, suppose the whole amount to be raised by tariff to be \$20,000,000. Tea and coffee would bear the whole amount and still be imported and used almost as extensively as they now are. Now as we do not raise tea and coffee in this country we would give no protection, incidental or otherwise, to American industry or American productions by collecting the whole amount on those articles. But suppose you put the \$20,000,000 of tariff on manufactured articles, made of cotton and flax, then you give \$20,000,000 *incidental* protection to factories and laborers engaged in the production of those articles. In each case the people pay precisely the same amount of tax or tariff, to wit: \$20,000,000. If it is collected on tea and coffee the tax is more generally distributed, and more of it is paid by the poorer class of our people who use tea or coffee and who purchase but few manufactured articles. In the other case, the wealthier class, who purchase more manufactured articles pay most of the tax. Now, I submit it to every candid American citizen, which would best promote American interest: to collect the amount which we are compelled to pay by putting it upon such articles as give incidental protection to home industry, or on such articles as discriminate in favor of foreign industry and foreign production? It seems to me too clear for controversy that we should give the incidental protection to our own home industries.

I find in looking at the last official report that there were \$650,000,000 of merchandise in round numbers, I do not quote the thousands, imported last year. Of this \$448,000,000 paid revenue and \$202,000,000 came in on the free list; and a large number of those articles on the free list are articles that we do not compete with here. I think it is judiciously put where it is in most cases. If we could get rid of the Internal Revenue Bureau, with all its consequences, which I do not care to speak about at present, I would be willing to put some tariff on a number of articles that are now upon the free list. As matters now stand we maintain two armies of collectors—those at the custom-house and those at the internal-revenue offices. It is an immense expense, and it is an immense engine of political power, and I do not think it is desirable that it should be in the hands of either political party. While the internal-revenue system is at present an engine of power in the hands of the Republican party, if the Democracy were in power to-day and our imports would bear it, I would advocate abolishing the internal-revenue system entirely. Let us have but the one corps of collectors, and let those be at the ports.

But again, I see that of the total amount of duties collected, \$17,000,000 in round numbers was collected on sugar and molasses. This gives a protection of about 40 per cent. to our sugar planters. This is protection to Southern planters. I simply submit it to my free-trade friends, if there be any here, whether we could maintain the Southern sugar plantations one year after that tariff is taken off. If with \$17,000,000 of protection we are hard run to make anything under the present system of labor on our sugar plantations, what would it be if you should enact free trade there? Much ado is already made about the sugar that comes in free under the Hawaiian treaty of reciprocity, and it is getting to be a serious evil.

Again, \$27,000,000 was collected on wool and the manufactures thereof. What would our free-trade friends, if there be any here, say, or rather what would the constituents of those friends say to them in all places, in the pastoral lands of Texas and the great West where there are such immense flocks of sheep, if you were to remove this tax upon woollens, for wool and woollens stand next to sugar and molasses in the quantity of tariff raised upon them? They are now protected by \$27,000,000 raised on wool and woollens. And if you were to impose a direct tax in lieu of this—in other words, if you were to withdraw the protection that you now give them on wool, and put about five times as much direct tax (as a United States tax) as they now pay as a State tax upon their flocks and the property they use in producing wool, what would they say to you? I do not think that such action would be approved by any Western constituency where sheep are raised.

The third largest item is the duties on iron and steel and the manufactures thereof, amounting to \$21,000,000 in round numbers. There may be some portions of the Middle States where they are far enough advanced in the manufacture of iron and steel to afford to have the tariff removed and have a direct tax, four or five times as much tax as is now collected, imposed upon the plant and machinery and everything used in making iron, but I do not think there is such a place in Pennsylvania, which I believe has the lead in the iron business. I am very sure we could not stand a moment under it in Georgia, Alabama and Tennessee, where the iron interest is in future to be one of the greatest interests of the South, if not crushed by unfriendly legislation. Large amounts of capital are now being invested in it, and it is affording employment to a large number of people.

The fourth largest item is the manufacture of silk, \$19,000,000. That is a great growing interest in this country, that I suppose no statesman desires to destroy. I am not in this connection discussing whether any of the present tariff rates are too high or too low, or what adjustment they need; I simply say I presume no member of the senate would desire to withdraw entirely the tax from silk and let that interest go down. There has been an immense amount of capital invested in it, and we import most of the raw material from abroad, in fact nearly all of it. To remove the tariff from it would be to entirely crush it. It seems to me it would not be good statesmanship to do it, and then impose a direct tax, as the free-trade advocates must do to raise the necessary revenue after they abolish the tariff, of more than four times as much as the owners of the silk factories now pay upon the plant and machinery and everything connected with it. That interest could not stand a moment under such legislation.

The fifth in the list is cotton and the manufactures of it. As much as has been said about cotton-mills, there are four other great interests that stand ahead, and more revenue is paid on account of them than on account of the importations of cotton and cotton goods. There it is only \$10,000,000 in round numbers that is collected.

The sixth item is flax. That is grown by our farmers in several of the States of the Union, and is a very important interest. Flax and the manufactures of flax yield a revenue of nearly \$7,000,000 a year to the Government. What would those who raise flax in the West and to some extent in the South say to us if we were to take this tariff entirely off and put from three to five times as much tax as we now do upon the lands on which they raise the flax? That would be carrying out free trade and direct taxation to its legitimate result. I do not believe any senator desires that. Hence I do not believe there is a senator here who is an open advocate of free trade in this country while we are obliged to make the immense collections of revenue that we now make. If there is, I have heard no one so express it. The

remarks of some senators indicate free trade. But I ask senators if they are for free trade with its legitimate consequences? Free trade means to raise \$200,000,000 annually by direct taxation upon the property of all the people in addition to the present internal revenue and State taxes. I ask senators if they are for it?

There are a great many other articles that are protected which are not simply manufactured articles. The six items I have referred to, however, and they are all very important ones in the industry of this country, yield \$133,000,000 of revenue, or over 69 per cent. of the whole amount of revenue collected on imports. No one, I presume, desires to crush any one of those great interests.

But there are other important interests of the farmer that are protected by the present tariff. There is a tariff upon live-stock; you may say it does not need protection. Why? There was \$3,700,000 worth of live-stock brought into this country last year to get in and compete with our stock-raisers that paid tariff. Your herdsmen would not be very much obliged to you for taking off the present tariff that protects their live-stock, and adding four or five times as much direct tax on the herds as they now pay. This is the inevitable result of free trade.

Then I find that barley is protected. That is a product of the farmer again; and, notwithstanding the tariff, there was \$7,200,000 worth of barley and barley malt that paid the tariff and came in last year to compete with our farmers who raise barley. What would the people of Missouri, Kentucky and other Western States that raise barley say to the free-trade man who would propose to take off that tariff and let all the barley of foreign countries come in, and add a tax of from three to five times as much as is now collected upon the plantation where the barley is raised? The farmer who plants barley would not like that sort of free trade.

Then on the article of cotton and cotton manufactures there was over \$30,000,000 worth imported last year that paid the tariff. If you will remove the tariff from the statute-book, and impose upon our cotton plantations and factories from three to five times the present amount of taxes, they will not be much obliged to you. If you repeal the tariff and enact free trade there is not a cotton plantation in the South that will not have to pay from three to five times as much direct tax as it now pays. Many of them now buy little that is imported, and pay little of the tax. Then they would all be taxed on the value of their plantations, adding for United States tax three to five times as much as they now pay the State.

There was over \$16,000,000 worth of flax, and articles manufactured of flax, that came in last year and paid the tariff. Would you take the tariff from flax and load the lands upon which our farmers produce it with a heavy direct tax?

Take the item of fruits and nuts, another item in which the planters, the farmers, the orchard men and gardeners are interested. There was over \$12,000,000 worth of fruits and nuts imported last year that paid tariff before they could compete with our fruits and nuts. Your fruit men would not bless your memory if you were to take off all the tariff that now protects them, and impose a heavy direct tax upon their orchards, their vineyards and their gardens.

There was over four million dollars' worth of furs imported last year that paid the tariff and came in. Your Western hunters would not be much obliged to you for taking off all tariff that protects their furs. Whether you could impose any direct tax on their business or not, they would still want the protection they now have. But other articles besides those mentioned in which the farmer is interested are protected by the present tariff.

Indian corn, oats, rye, wheat, and the meal or flour made of the qualities of grain mentioned are protected, and some of each has come in and paid the tariff to get in during the past year; pease, beans, and other seeds of leguminous plants were imported last year to the value of \$337,000, and paid tariff to get into competition with our own farmers; about one million of dollars' worth of bristles annually pay tariff to get in; hair to the value of over \$680,000 paid tariff and came in; "jute and other grasses" which can be raised in Florida and other Southern States, and the different manufactures of those products came in to the value of about \$9,000,000, and paid tariff; leather and the manufacture of leather of all kinds, worth nearly \$6,000,000, did the same; the same is true of potatoes to the value of over \$874,000; provisions, (meats, poultry, lard, butter, cheese, etc.) not including vegetables, to the value of \$1,278,000, paid tariff before they could get in and compete with our farmers; flax-seed or linseed, and other seeds, worth \$1,713,000, did the same; the same was true of tobacco and cigars, worth over \$6,000,000; the same is true of wines, spirits, and cordials, to the value of over \$8,000,000, which can be raised on the Pacific slope as well as in Europe, which is soon to become one of our great agricultural interests; the same is true of woods, including boards, joists, scantling, shingles, etc., worth over \$8,000,000; rice to the amount of over 61,000,000 of pounds, worth \$1,413,000, also paid tariff and came in. I might add still others to the long list of protected articles which pertain to the interests of our farmers, planters, herdsmen, gardeners, fruit-growers, etc., but I do not deem it necessary.

Now, I ask senators, would your sugar-planters, your rice-planters, your hemp-planters, your flax-planters, your fruit-growers, your herdsmen and garden-men, and all the others I have mentioned, approve your action if you should remove all protection from them and load them with a heavy burden by direct taxation? If that is not what you mean by free trade, what do you mean? You can mean nothing else. I believe no senator will get up here and say he advocates it. Then, if that be true, it is understood, I suppose, that we are to continue to collect the revenues, or much the larger portion of them at least, and I trust at no distant day all of them, by a tariff upon imports. If so, on what articles will you impose that tariff? It is an immense sum you have to raise. You cannot get rid of it. There is no escape from it; you must collect it; and you will continue to collect it. There is a vast amount of protection in it, no matter how you shape the tariff. But the question is, will you so shape it as to give sufficient incidental protection to American interests, or will you try to shape it so as to cripple those great interests?

I repeat it, What will you put the tariff upon? Will you protect American industry and American productions, or select such articles as tea and coffee and others that we do not cultivate in this country and in which we do not compete, and put it upon them to avoid the protection of American industry? I presume not. Then where will you place it? You have to collect it, or if not tell me how you will get rid of it, and what substitute you will put in its place as a mode of collection of revenue to support the Government? I apprehend no one will suggest a new plan. Then it seems to me that it is proper we should so adjust it as to afford, as far as possible, incidental protection to every American industry and every American laborer. There may be some branch of American labor that it is not in our power to protect. There is no tariff now, I believe, imposed upon raw cotton introduced into this country. There is a very considerable number of pounds brought in that now pays no tariff, yet on account of our superior climate, soil, manner and quality of production we need very little done in our favor

South by imposing a tariff on cotton to keep it out of our markets. We cannot, I grant, afford equal protection to the labor in all the different fields; but is that a reason why we should not so adjust the tariff as to protect as far as we can incidentally the laborers in other pursuits where it is in our power? We surely are not antagonistic to American interests. We do not prefer the interests and the labor of other countries. If we do not, the presumption is, we prefer our own. If we do prefer our own, why not, in the collection of the large amount that must be collected, so impose the duty as to give incidental protection to the extent of our power to our own? It seems to me that is not only wise statesmanship but common sense and patriotism. What other course would be better? I confess it does not occur to me.

I may not understand this question, but I would be very thankful to any Senator on either side who will point out to me a better mode of collecting this three hundred and odd million dollars a year that we now collect by tariff and internal revenue, or the \$200,000,000 that we now collect by tariff.

I do not pretend to say that the present tariff is a just one; I do not believe it.

As to the point in reference to the commission, taking this view of the question, it seems to me to be very important that early action should be taken to so equalize and adjust the protection given by this \$200,000,000 that we have to raise every year on imports as to do the most good, to foster incidentally as far as we can American productions and American industries without doing injustice to other American industries. I am aware that the task is a very delicate one. There has never been a perfect tariff; I suppose there never will be; but I presume every senator who has studied this question feels anxious to approximate perfection in it as nearly as possible, to raise as small an amount as we can raise for the support of the Government, but to raise it as it is at present raised, by a tariff, and in collecting that tariff to do what we can incidentally to build up American industry and not to crush it.

Mr. President, I am not prepared to say that the two Houses of Congress are not competent to take up this question and dispose of it, but it has been here for many years not disposed of. I see no movement that indicates that it is likely to be disposed of at this session in any other manner than by a commission. With the immense amount of business Congress now has before it I do not think any committee of gentlemen of the two Houses understanding this question can afford to absent themselves from the deliberations of their respective Houses long enough to frame and bring in anything like a perfect tariff bill. When the commission is raised it is simply one to investigate and report. It is presumed the President will appoint men of known ability, representing the different shades of opinion on this question. He cannot do his duty and act otherwise. Such a commission in some months or a year, if you please, if they shall be diligent, taking hold of the whole question, can find where the friction is; they can see where it is necessary to trim off.

Mr. Bayard. They can report from time to time.

Mr. Brown. As the senator from Delaware suggests, they can from time to time report. They can take up for instance a particular subject, as cotton and articles manufactured of cotton, or sugar and molasses, or whatever articles they may think best, and if they desire they can report very frequently upon the question. After they have made their report we are not bound by it. The object is simply to give us information on the subject. When we get that information it will be proper that we should so use it as to promote the public interest, and that we should frame with that informa-

tion in our possession a tariff bill that will approximate as nearly as possible justice to all sections and all interests. It is not a heavy expense; it takes no time that is not likely to be taken anyhow, as every senator sees. Then why not create the commission and let it go to work energetically at once, get up the information desired and communicate it to us, and then let us act upon it? I see nothing better in the present state of things than a commission, and on that account I shall support the pending measure.

As between the proposition of the committee and the proposition of the senator from Arkansas, I prefer that of the committee for the reason that I do not think at this stage of the session any three senators on this floor, or any three members of the House, would give up their legislative duties and go into such an investigation. If it is said: let it lie over until vacation, that is consuming a great deal of time, it seems to me unnecessarily; and I presume there are few senators here, after they have been exhausted as much as they will be by the labors of this long session, who would undertake to spend the vacation in the investigation of this subject. If you were to call for volunteers, Mr. President, I apprehend it would be hard to get a response. Then it seems to me it would be better to appoint men of marked ability and disconnected with Congress, representing all the shades of opinion, and let them get the facts for us, report them to us, and then let us act as we think best for our constituents with all the facts before us.

Mr. President, a good deal has been said here about Democratic platforms, and North and South. I see no reason why that should enter into this discussion. The Democratic party, to which I am proud to belong, will not again, in my opinion, incorporate in its platform a tariff plank that calls for "a tariff for revenue only." I believe its platform will be for revenue with incidental protection, and as much of it as the amount required to be raised when properly distributed will reasonably afford.

Again, there are many Democratic districts in the United States that are now represented by Democratic members of the House, that it would be impossible to carry upon a free-trade platform or a platform of a tariff for revenue only without any incidental protection. The senator from South Carolina [Mr. Butler] asks me if there are some in Georgia of that kind. I tell him very frankly I think there are. I am not sure but that there may be some in the senator's own State. When you come to removing the tariff from the rice-fields of Georgia and the Carolinas and imposing a heavy direct tax on the rice plantations, there is a large class there who would demur; when you come to removing the tariff entirely from sugar, there is a large class that would demur in Louisiana, and Florida, which is going to be one of the great sugar States; when you come to removing the tariff entirely from wool, the large class of wool-growers will demur. Therefore, I agree with the senator from South Carolina that there are districts in the South, as well as in the North, which the Democracy cannot carry on a platform of a tariff for revenue only. On the other hand, from the best information I have, I believe there are districts in the West where there are no manufacturing establishments, that are strongly Republican, that my Republican friends would have difficulty in carrying on a platform to raise money for protection for protection's sake. I do not think they can do it. In other words, the people of this country are not ready to adopt either of the extremes. The medium ground is the ground they will occupy, and the sooner this whole tariff question is eliminated from the politics of the country and dropped from the platforms of the two parties, leaving it to the representatives of each district, and of each State and Territory to take such course here as they think for the best interest of their constituents, the better, in my opinion, it will be for the whole country.

Entertaining this view, I cannot enter into any party discussion here, for I do not think either party is irrevocably committed for the future on this question. It is a grave question; it is a great question; it is full of embarrassments, and it ought to be the pleasure and pride of every statesman to do all he can to solve it in such manner as will best promote the interests of the whole American people, north, south, east and west.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, DECEMBER 14, 1882, ON THE BILL FOR CIVIL-SERVICE REFORM. ITS PASSAGE NOT DEMANDED BY THE PEOPLE. IN ITS PRESENT SHAPE IT IS EITHER A DELUSION OR AN ACT OF INJUSTICE TO A MAJORITY OF THE PEOPLE OF THE UNITED STATES.

The Senate, as in Committee of the Whole, having under consideration the Bill (S. 133) to regulate and improve the civil service of the United States—

Mr. Brown said :

Mr. President: I admit it is very important that there be a better system of administration inaugurated than we have had for many years past. I do not think, however, that the bill now before the senate, if passed, will inaugurate any such system. I think it will prove a mere delusion. If we pass it we excite popular expectation, and popular expectation will be greatly disappointed in the workings of the system. I have heard the British system spoken very highly of; many eulogies passed upon it. It has been said by advocates of this bill—probably not on the floor, but again and again outside of the Chamber—that we should adopt something similar to that system, if not the exact system itself.

Now, Mr. President, the forms of the two governments are entirely different, the circumstances are different, and the surroundings are different. The system that may work well there in a limited monarchy, the policy of which is to maintain an aristocracy, even a landed aristocracy, is not appropriate to a republican form of government like ours.

In Great Britain the executive is hereditary. The incumbent derives his right, not by election of the subjects or citizens of that country, but by birth-right. The upper house of the British Parliament is not elected, but those who occupy seats there, unlike this body, are dependent upon the accidents of birth for them, not upon any special merits or personal qualifications that they may have, but the duke takes his seat because he is the son of the former duke.

That is not our American system. It is very consonant, however, with that system to adopt a civil-service rule that, while the executive is for life and hereditary and the higher branch of the legislative department holds for life and is hereditary, will make the subordinate officers hold for life. I say it is consistent and compatible with that system. It is not so here. Under our republican system no man takes anything by hereditary right, but the way is open to the son of the humblest peasant within the broad limits of our domain, if he has merit and energy and ability, to occupy the highest position in the Government. Our theory is that men are to be promoted on account of merit and qualifications. It may not always be carried out—of course it cannot always be—but that is the nature of the system and that is the general practice. It is compatible, therefore, with that system to leave the changes in the legislative department, in the executive department, and in every department except the judicial to the frequent mutations of parties and to the supposed merits of the competitors who compete for the prizes. In

all the departments, legislative and executive, qualification is supposed to be looked to. Election of representatives and the higher officers is the general idea. Why in the face of that should we establish for the subordinate officers in the different executive departments and in all the larger offices within the limit of the United States a system of lifetime tenure for the very large class of persons who fill those places? I say it is not compatible with our very form of government. It is one step in the direction of the establishment of an aristocracy in this country, the establishment of another privileged class.

It may be said, however, and I believe that sentiment was uttered only a few days ago, though not in the language I use, probably, that it takes away from persons who hold these positions the inducement to be active politicians. In some cases that might be the working of it; but bear in mind, Mr. President, it leaves it in the power of every one of them to become an active politician, and if the spirit of the system is carried out as claimed by the senator from Massachusetts [Mr. Hoar] the officers can be as active as they choose on one side, and one side alone, and run no risk of losing their positions. It builds up a powerful class supported out of the Treasury of the United States, out of the taxes of the people, and places in their hands the power, if they choose to exercise it—and there is a great deal of human nature in man, so that they probably would exercise it—the power to do much to control the future rulers and destinies of this Government.

I am not very fresh from my reading of Roman history; but as I recollect it there was a period in the history of that government when it became necessary to establish the Prætorian guard to protect the ruler against the populace. It would naturally enough have been claimed that that guard would take no part in the politics of Rome, and yet in the workings of time that Prætorian guard became the master of Rome and assumed control of the government. As they protected the sovereign, they dictated who should be the sovereign, and for a large enough amount of money they would displace one sovereign to make room for another. How do we know that we may not build up a similar class here when we build up a lifetime aristocracy in office, or when we establish a lifetime tenure of office? It is contrary to the very genius and spirit of our Government.

My honorable friend from Ohio [Mr. Pendleton], who has this bill in charge, stated yesterday that the bill did not make any provision preventing removals from office. I do not find that it does in language, but the honorable senator from Massachusetts [Mr. Hoar] tells us to-day that that is the spirit of it; that that is what is contemplated, and that it is not likely that an executive officer would venture to make removals, acting under this bill, unless for cause, as misconduct in office and the like.

That is what the movers of this bill look to. I do not say that it is what the senator from Ohio looks to, or that such is his purpose; but as I understand it, it is the purpose of those who lead on the other side of this Chamber and bring to this bill its most efficient support. But that is not all—

Mr. Hawley. I do not like to interrupt; I refrain from it as much as I can; but I desire to call the senator's attention to the fact that those who have spoken for the bill affirm in the most vigorous and unlimited manner the right and duty of the Executive to remove at pleasure. I will not take it away from the Executive. I do not see how the Prætorian guard can hurt him much if he can take the Prætorian guard by the ear and lead them out any morning he pleases.

Mr. Brown. Then I ask what is the value of this bill? It is the sheerest humbug and the sheerest deception and nonsense. If we are to go through all this great ado before the country of passing a civil-service bill, which it

is said is so much demanded by popular sentiment at this time, if we have to satisfy popular clamor by the enactment of a civil-service bill, what a deception, what a fraud upon the people to tender them this bill! If there be really in the popular mind a demand for any such bill as is usually termed civil-service reform, it is a bill to make permanent the positions of those who hold offices, to confine removals to cause alone. The class who ask for it, I think, are a very small minority of the American people. At the same time they ask for it in that spirit and with that purpose, and they would consider themselves mocked if this bill is passed containing no protection for the incumbents against removal without cause. What good does it do as a measure of reform if the power of removal is unlimited and without cause at the mere will or whim of the appointing power? The civil-service reformers who are most clamorous for action, and who are in earnest about the matter, would consider such a measure, if that is all it means, as a trick, a sham, a delusion.

But it requires a competitive examination, say the senators on the other side, before you put a man into office. There again the bill is a cheat and a mockery. It does no such thing in spirit and substance. For fear there might come a day when a Democratic executive would administer the affairs of this Government, and that day might not be very distant, there is a careful provision in this bill that it shall apply only to the lowest class who are to hold office. There shall be a competitive examination for the lowest grade only; that is free to all; and the senator from Massachusetts who took his seat a few minutes ago very earnestly stated that that was one of the strong features in it.

Now, I believe that there is a very large number of employes in the Departments at present, occupying different positions in them, some of them high positions, who are not fit for those places, morally, intellectually, or in any other manner; but the charmed circle is not to be disturbed. If there chances to be one of the lower clerkships vacant, then the doors are thrown wide open by this bill and every American citizen may come up and compete for it. It will not do to go higher than that, for too many Democrats might get in. You Democrats may come up and compete for the lowest clerkships that are to be filled; but if a vacancy occurs above that, then the Republican employes and officers already in office, and they alone, can apply for the advancement or promotion. That is the civil-service reform that this bill gives to the country; that is the share that the Democratic party gets in it. I repeat it, under the provisions of this bill the competition is only general for the lowest office that can become vacant. There a Democrat stands a chance to get in this lowest position, but if fifty vacancies occur above it only the present incumbents, the Republican office-holders, can compete for the promotion. That is what it holds out to the Democratic party. That is our share in its benefits.

Now, I am going to talk plainly to Democrats. It is not required for us to mince words here, for the country very well understands this whole question. The Republican party have had the offices of this Government for the last twenty-two years consecutively. The Executive has been Republican, and they have had the distribution of the offices and places. They still have it. True an avalanche has swept over the country, and with it the strongest condemnation of the practices of that party. It is true this was in the off year, and not the Presidential year; but prudent, sagacious men on the other side of the Chamber understand this as well as we do on this side. If we make no great blunders—and I know I have heard it said on the other side that they rely a great deal on Democratic blunders, for we sometimes make them—unless the Democracy is guilty of great folly on some important questions there

can be, to my mind, and I think to the minds of senators generally, but little doubt that the next president of this republic will be a Democrat,

I am speaking now to Democrats. How do you go into that campaign? Suppose you put my honorable and worthy friend from Ohio [Mr. Pendleton] or my honorable friend from Delaware [Mr. Bayard], or any other one of the prominent and able gentlemen mentioned for the place, in nomination for the Presidency, and you go before the Democratic masses of the United States and tell them that you are handicapped; that all the offices that amount to anything, the higher and more important places, are already disposed of. "Disposed of how?" they will inquire. "Why, the Republican party have had them for twenty-two years, and seeing that there was a probability of a change of administration"—to put it in no stronger light—"they have hedged, and they have taken good care of themselves; they have passed a civil-service bill and Democrats have helped them to enact it; and we have it on the statute-book now that there is no Democrat to be put into office in any of the executive departments except in the lowest positions. Above them the Republicans alone may compete with each other for the places; but there is no chance for a Democrat."

In a free republican government like this those who belong to both parties fight for office as well as principle. Do you believe that the Democratic leaders in all the different States would work with the same energy, and zeal, and ability as they would if you held out to them a chance of a change of the offices with the change of the Executive? It would be contrary to all the history of the past to expect any such work.

I know it has been replied to this that the Democratic candidate would not likely have so strong opposition from the Republican office-holders in office. I have no faith in that. The Republican office-holders are usually ardent, true Republicans; they believe in the principles and practices of their party, and they want to promote and perpetuate them, and they believe that that party has a sort of divine right to the offices of this Government, and they will be as true to their party in the campaign as the needle is to the pole, while you deaden the energies of the Democratic leaders from the lowest to the highest by taking away any inducements you would otherwise hold out to them to fight with the view of reaping any of the rewards of success. They would vote the ticket patriotically as true Democrats, but they would not exert themselves as they would do if they believed there would be a general change or even a change of one-half the persons holding the offices.

I say, then, take it any way you will, I do not see, with great deference to my friend from Ohio, why at this time a Democrat should vote for this bill; certainly not without important amendments, that destroy the aristocracy of Republican office-holding that this bill provides for. Will Democrats vote for it when it closes the doors of the competitive examination against Democrats for every position except the very lowest? I do not wonder that our Republicans friends are very unanimous, and very anxious at this time for the passage of this bill. The only wonder I have is that it has taken them so long to reach this point. The first four years when they were in power were years of war. It was then no time to discuss civil-service.

Perhaps the next two or three years ought not to be counted, during the stormier period of reconstruction; but take off six years from twenty-two and it leaves about sixteen years of peace, when senators and representatives were in condition here to consider the best interests of the whole country. It has taken them sixteen years to reach the point of, as they consider, a real civil-service reform.

Well, now, to show the humbuggery in this whole affair, there was a very good civil-service statute put upon the book some years ago when General

Grant was president, and the law was not only enacted but the machinery was provided. The three commissioners—I believe three was the number—were appointed. As is contemplated by the act, they went to work; civil-service reform, it was said, was going to be given to the country then. Broad plenary powers were given to the President.

There were some very patriotic and able gentlemen, too, on the commission. One of them was from my own State, Judge D. A. Walker, an honored name, a worthy gentleman, a true Republican. They worked and did, no doubt, the best they knew how; and what real substantial reform did the country see? It became so much of a mockery that Congress in a few years afterward refused to appropriate the salaries of the commissioners. It was seen to be a deception and a fraud in practice, whatever might have been intended and however sincere President Grant might have been in his purpose to carry it out in good faith. It failed. It was an inglorious failure; and matters went on as matters will go on in this Government.

This is a republican government; it is democratic in form, and you have to change the nature of the Government and change human nature also before you will be able to adopt in practice here any utopian theories about civil-service.

I do not laud the sentiment mentioned by the honorable senator from Massachusetts, which he attributes to Mr. Marcy, that “to the victors belong the spoils.” He said it was rather coarse. Probably it was; but yet to a very great extent it has been the system practiced from the first day of the inauguration of this Government; and whatever you may put upon the statute-book it will be the system practiced until its funeral knell is sounded. And no party in this Government ever practiced the spoils system with more zeal and energy than the Republican party has. “To the victors belong the spoils,” has been its constant motto in practice; and still would be, if impending defeat did not stare it in the face. There may be some reforms, some of the worst features may be cut off; but in the main the Executive who comes into power when his party has long been deprived of power will find a way, and the heads of departments under him will find a way to give to his followers the benefit of the offices or a large proportion of them.

While General Grant had the power with a commission to inaugurate civil-service reform—and I suppose he doubtless did all he could in good faith to do it, for he seemed intent on it—yet the heads of departments and the subordinate heads found ready ways of evading it, and you may put this on the statute-book—

Mr. George. May I interrupt the senator from Georgia to ask a question?

Mr. Brown. Certainly.

Mr. George. If it be true, as the senator from Georgia suggests, that a new President and new heads of departments can find a way, notwithstanding the statutes that we may put on our statute-books, to reward their followers, their supporters, then I ask, in anticipation (as the senator seems to think we are about to have one) of a Democratic success in 1884, how can this measure prevent a Democratic president and Democratic heads of Departments from rewarding their followers?

Mr. Brown. I answer the senator from Mississippi as I answered the senator from Connecticut a while ago. He will not be restrained from doing it, and that shows the miserable fraud and humbuggery of this measure. In effect it will amount to nothing, and cannot amount to anything.

Mr. George. Then will the senator from Georgia allow me to say that it is not a fair argument to excite the prejudice of the Democratic party of this country against this measure on the ground that its effect will be to prevent a Democratic president from appointing Democrats to office?

Mr. Brown. I argued that proposition on the theory of the advocates of the bill, that if you can carry out your policy, that will be the effect; but I say you cannot do it; and then you are engaged in that which is worse than idle when you are here enacting this law.

Mr. George. Will the senator allow me to say that it is the statute and not the theory of its advocates that is to have force in this country.

Mr. Brown. In fact it is the practice of those who execute the statute that has force in this country. That is what it is. You may put on the statute-book laws as stringent as you please to make them, and if popular sentiment and the sentiment of those in power do not approve those laws, they will be evaded in the execution and will be a mockery; and so this will be.

I say the argument is legitimate, that, give the measure all you claim for it, then as Democrats you should not vote to handicap your candidate, and you should not vote to retain in office for life those who have held the positions for so long a time, and who are your political enemies. But if it is not true, that it will be executed or that it amounts to anything, then this is a vain business in which we are engaged and we had better spend our time in something that is of some practical utility.

The preamble of this bill promises very finely. I desire to read it:

"Whereas common justice requires that, so far as practicable, all citizens duly qualified shall be allowed equal opportunities, on grounds of personal fitness, for securing appointments, employment, and promotion in the subordinate civil service of the United States."

That is very broad. It would seem to be a very good doctrine. But I confess I was struck when I looked further over and saw that in the very teeth of that recital of the proper principle the competitive examinations are limited to the lowest grade of offices. That means, I suppose, that it is justice in case of the lowest grade to give everybody a chance; but above that the benefit must be confined to the inner circle, those who have held office a long time and want to continue to hold it; in other words, to Republicans.

Again the preamble says:

"Whereas justice to the public likewise requires that the Government shall have the largest choice among those likely to answer the requirements of the public service."

That is good doctrine, but the body of the act is in the teeth of it. The Government should have the largest choice among those likely to answer the requirements as to qualifications for office, and yet you limit the choice of the Government in the body of the bill to the lowest grade.

Again:

"Whereas justice, as well as economy, efficiency, and integrity in the public service, will be promoted by substituting open and uniform competitive examinations for the examinations heretofore held in pursuance of the statutes of 1853 and 1855."

Economy, efficiency, and the integrity of the service will be promoted, says the preamble, by substituting competitive examinations, and yet the body of the bill denies the competitive examination, so far as the public generally are concerned, to all persons except for the lowest grade of offices.

But reference has been made here to the letter and doctrines of Mr. Jefferson on this question. He has been cited as authority, and he is very high authority on any subject that he ever handled. There are certain expressions in his letter to Mr. Lincoln that are warped to mean that removals should take place for cause only, and that qualifications and fitness alone should be looked to. Mr. Jefferson made very important qualifications of that doctrine in that letter. I propose to read a portion of it. He speaks of the action of the leaders of the Federal party at the time, and says: (See

his letter to Levi Lincoln, dated 25th of October, 1802, vol. 4 Jefferson's works, page 450.)

"They are trying slanders now which nothing could prompt but a gall which blinds their judgments as well as their consciences. I shall take no other revenge than by a steady pursuit of economy and peace, and by the establishment of Republican principles in substance and in form, to sink Federalism into an abyss from which there shall be no resurrection for it. I still think our original idea as to office is best: that is, depend for the obtaining a just participation on deaths, resignations, and delinquencies."

But Mr. Jefferson says more than that:

"This will least affect the tranquillity of the people and prevent their giving in to the suggestion of our enemies, that ours has been a contest for office, not for principle. This is rather a slow operation"—and if he had been confined to the lowest grade of office alone he would have thought it a great deal slower—"but it is sure if we pursue it steadily, which, however, has not been done with the undeviating resolution I could have wished."

Mr. Jefferson only waited for deaths, resignations, and delinquencies. When these came a Republican, as the Democrats were then called, was to be put into office. He declares that was very slow. And what does this bill do? It waits in the same manner for deaths, resignations, or delinquencies, but only in the lower grades. It does not give us the chance of putting in a Democrat in every grade that becomes vacant, because the competitive examination must be from those in office at the time; for all above the lowest grade. It confines us to the lowest grade. What would Mr. Jefferson have said if there had been an attempt to confine him to the lowest grade in filling offices where vacancies occurred in the manner already designated? He would have thought it was a great deal slower than the slowness of which he complained.

Again, he said:

"To these means of obtaining a just share in the transaction of the public business shall be added one other, to wit, removal for electioneering activity."

What would he have said to the hundreds of clerks who are given time when elections come on to go to Ohio and the extreme limits, wherever there is a Republican State, to take an active part in controlling the State elections? Would he not have swept the last one of them from office?

He adds:

"Or open and industrious opposition to the principles of the present Government, legislative, and executive."

If they took an active part in politics against him, or if they were open in opposition to the principles of the party in power administering the Government they were to go by the board. Hear him again:

"Every officer of the Government may vote at elections according to his conscience; but we should betray the cause committed to our care were we to permit the influence of official patronage to be used to overthrow that cause. Your present situation will enable you to judge of prominent offenders in your State, in the case of the present election."

"Prominent offenders in your State." That is, those who had taken a prominent part against his party in Connecticut. That was what he meant, and it would be left to Mr. Lincoln to judge of those who had been prominent in that way. Then he adds:

"I pray you to seek them, to mark them, to be quite sure of your ground, that we may commit no error or wrong, and leave the rest to me."

He was President and said, "Seek them; mark them; be quite sure of your ground, and then leave the rest" to him; he would take care of it.

Again he says :

"I have been urged to remove Mr. Whittemore, the surveyor of Gloucester, on grounds of neglect of duty and industrious opposition. Yet no facts are so distinctly charged as to make the step sure which we should take in this. Will you take the trouble to satisfy yourself on this point? I think it not amiss that it should be known that we are determined to remove officers who are active or open-mouthed against the Government, by which I mean the Legislature as well as the Executive."

Mark his language. He thought it not amiss that it should be known that they were determined to remove from office those who had been active and open-mouthed against the Government, whether in the legislative or the executive department. That was the sort of civil service that Mr. Jefferson advocated; that was the advice he gave to his friend Lincoln of Connecticut; and mind you, he says, "Mark them, and leave the rest to me." And so it will be, no matter what civil-service bill you may pass; whenever the President and the heads of Departments desire to do so they will mark them, and they will find a way of getting rid of them.

Now, Mr. President, one word as to the natural inherent justice of this case aside from all political views of it, or any partisan view; what is right, what is just. According to this preamble it is right and just that men should take their chances in procuring office, and have a fair chance in accordance with their ability, their intelligence, and their fitness for the place; all taxpayers and all citizens should stand upon grounds of equality, taking chances alike, with no favored class and no proscribed class.

What is the state of things in this Republican Government of ours? There are now, it is said, about 55,000,000 people; there are about 110,000 officers and persons holding employment under the Government, and those places are held by Republicans almost invariably.

It is true the senator from Massachusetts told us a while ago that the President of the United States now stands pledged to sign and support a measure for civil-service reform. Why does he stand so? What new-born idea has put him on that platform? I speak kindly of him personally, for I have great regard for him; but his political course we have a right to discuss. What administration, at any time since the foundation of this Government, has ever been more proscriptive, so far as appointments to office are concerned? How many Democrats has he left in, holding offices of any importance? Some of his predecessors were more liberal on that subject. But when he came in I presume those having influence required of him that he should make a clean sweep, and he has made it as near as any administration ever can.

What, then, is the modest proposition here? It is to give to the Republican party, according to the theory of the advocates of the bill, especially the theory of the senator from Massachusetts, a permanency in these offices. What is the Republican party of this country? It is a minority of the people of this country. In 1876 Samuel J. Tilden was elected President of these United States, and he got a popular majority of about 250,000. In 1880 James A. Garfield was legally and constitutionally elected President of these United States, but he was elected by a plurality only; adding the Democratic vote and the Greenback vote together, he was beaten on the popular vote by over 300,000 majority.

The Republican party, then, are a minority of the people of the United States, and yet they hold to-day almost all the offices connected with the Government of the United States. Is it right, Mr. President, as a naked question of justice, equity, and fair play, that this state of things should continue? They have had this advantage for twenty-two years. How long has this minority a divine right to govern this country?

No, if we are to have a just and equitable civil-service reform let it be a reform of the abuses of the party that has so long wielded the power of the Government, and let that reform be put upon the basis that in future competitive examinations when you ascertain the two highest the Democrat shall be preferred until one-half the office-holders are Democrats. I can see an equity in that; not if you confine it, however, as this bill does, to the lowest grade of officers; but if you will throw all the offices in these departments open to competition when vacancies occur, and then take the two highest and give the preference to the Democrat until the Democrats have half the offices, there is something like a just and equitable civil service. You would have to give the Greenback party some portion, but I am willing to meet this question anywhere upon the equity and justice of the case. I do not fear to go before the populace upon it and say that I do not favor this policy of civil service, because of its injustice, its inequality, and its want of equity. The Democrats perform their part of the duties and bear their part of the burdens of this Government; they pay their portion of the taxes; they do their part of the military service; in a word, they do faithfully the duties incumbent upon citizens.

Why is it then that they should be proscribed not only for the long period, when it has already been so, but for all future time? Why are they not worthy of their part in the patronage and offices of the Government if they bear their part in the burdens of the Government? Will some senator who is so anxious for this civil-service reform please tell me why it is that the Democrats have no equity, no rights as a class? I know it has become popular to prate about civil-service reform. We have had it in President's messages and in reports of heads of the departments until it is in everybody's mouth, and yet how delusive. In practice it amounted to nothing from the very commencement, and now this bill proposes to make it an engine of inequality, injustice, and wrong to the larger half of the tax-payers and voters and people of the United States.

I will give my sanction to no such measure, and if no other man in this Chamber votes against it I will pride myself in recording my vote against a measure that proscribes a majority of the people of the United States, with which majority I act, and drives them from public positions for almost a generation to come, opens the way to the lowest grades that we may come into the lowest positions only, and leaves the balance to those already in, who are all Republicans. I treat it on its equities, I treat it on its justice, and denounce it as unfair, as fraught with wrong, injustice, and inequality, and I ask any one who can to defend it as a principle of equity. If the Democracy had been twenty-two years in power, and had the control of the offices and patronage of this Government, I say to my colleagues on this side you would hear a different voice from the other side, in my opinion; I think they would see, and have no difficulty in reaching the conclusion, that the bill was unjust, unequal, and ought not to pass.

I have noticed ever since I have had the honor to occupy a seat on this floor, that the Republicans have touched this question a little tenderly, and it has been kept before the popular mind in a very gentle manner all the while, by messages and reports, and so on; but when it came right down to action they were a little dilatory about it. But since the elections of November last their energies have been quickened, their convictions have been strengthened, and to-day they are not only almost persuaded, but they are full converts to the doctrine that civil-service reform is imperatively necessary, and necessary just at this particular time.

I do not blame them. I do not see that their course is what it ought to be, if we go on the principles of justice and equality; but as a party measure,

if we will sit here and permit them to enact such a law, I cannot blame them for doing it. The Democrats will not hold them responsible, they will hold us responsible for it; and the Republicans, looking to the action of their senators, no doubt will applaud their energy and their skill in providing for their office-holders for a lifetime in the future, just as the period has come when there is danger that they may have to leave.

But there is another provision in connection with this bill which may require some attention. The country has been greatly shocked by the practices of the Republican party, by their levying assessments upon subordinates in the various offices of the Government to be used for political purposes, and both sides seem now to agree on the propriety of enacting stringent laws against such a practice in future. In other words, we propose in future to make it highly penal, if not a penitentiary crime, for any officer or committee to do what the Republican committee did in the last campaign. And while I deny that the great majority of the people of the United States have either clamored or called for a civil-service measure of the character contemplated by this act, I admit that there is a general demand for the enactment of a law to punish, and punish severely, the practice of soliciting and virtually compelling donations of part of their salaries from subordinates in the different departments. But why pass a civil-service bill of the character of this to get that provision into it? Why not meet the question fairly and squarely, like bold, sensible men, and amend the penal code of the United States by the enactment of a law providing ample punishment for those who practice this system in future? No civil-service bill is necessary. It wants a penal statute to make the infamous practice a high misdemeanor, if not a felony. Those who claim that the people at the last election not only condemned the corrupt methods and practices of the Republican party; but that they demand the so-called civil-service reform contemplated by this bill as a remedy, make a great mistake. The corrupt practices have been condemned. The people have spoken in thunder tones of condemnation and denunciation, which can neither be ignored nor misunderstood. They denounce the admitted malpractice of Republican officials, and demand a remedy. But what remedy? Not that we pass a law to continue the perpetrators of these great wrongs in office for life or a term of years. The party to which they belong has held power twenty-two years. It is time there was a change. And the people demand as a remedy for existing abuses, a change of officials. They demand that the unfaithful public servant, whose maladministration cannot be denied, be hurled from power, and that their places be filled by honest, capable men, who will reform the public service by a return to the purer and better methods practiced by the fathers of the republic; who will cut off all surplus and unnecessary officials, clerks, and employes; and all extravagant waste of the public treasure, which is wrung by taxation from the labor of the people.

But, Mr. President, I am aware that I have already occupied the floor too long. Before taking my seat, however, I desire to announce certain amendments that at the proper time, whenever I can get an opportunity, I propose to offer to this bill. On line 22, section 2, page 8, I find this language:

"Third, that original entrance to the public service aforesaid shall be at the lowest grade, and appointments thereto in the departments at Washington shall be apportioned, as nearly as practicable, among the several States and Territories and the District of Columbia, upon the basis of population ascertained at the last preceding census."

There I shall move to strike out the words "shall be at the lowest grade," so as to read:

"That original entrance to the public service aforesaid and appointments thereto in the departments at Washington shall be apportioned, etc."

Then I find, on page 4, section 2, line 80, this language:

"Fifth, that promotions shall be from the lower grades to the higher on the basis of merit and competition."

I shall move to strike that out entirely.

Then on page 10, in section 7, I find this language:

"That after the expiration of six months from the passage of this act no officer or clerk shall be appointed, and no person shall be employed to enter or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination in conformity herewith."

There I shall move to add:

"Whenever a vacancy occurs in either of said classes it shall be filled with one of the two persons who stood highest on the competitive examination, and the selection for appointment shall not be confined to the persons in the office, or who at the time hold positions under the department in which the vacancy occurs, but other persons, citizens, desiring the position shall, on application, be permitted to participate in the competitive examination, and shall receive the appointment if the examination shows that they possess qualifications superior to the competitors who may be in position at the time of the examination."

In other words my object is to get rid of that feature which confines the competitive examinations to the applicants for the lowest class. Why should not a person occupying no position under the Government, who is eminently qualified, have a right to apply for a vacancy in a higher class? I know no reason except that he is a Democrat, and he must not interfere with the inner circle or with the political power of it. I want to open the door wide, if we have competitive examinations, and let every citizen who feels that he has claims superior to an inferior man now in position go and compete for the prize, and if he wins it, though he be a Democrat, let him have it. I think this is right. I do not feel that I should do my duty if I were to sit here and see this bill pass without doing all in my power to see that justice is done to the larger half of the people of this country in giving them an actual chance to compete for these positions. The bill, as it now stands, does not give it. I seek to amend it so that all who feel that they are really qualified shall have a chance for the offices.

I know there are stringent provisions in the bill about any one doing anything to promote the claim of one applicant or injure the claim of another. There is simply nothing in that. The head of a department may give stringent orders to have everything go right, but he has men under him who have been there probably for twenty years, shrewd, sharp managing fellows, and they will find a way to get the preference given by examiners to a favorite who is wanted by them and against those they do not want. You will never purify this service until you drive these old rats from the malt. You will never purify it as long as those who have had control of things for a long time wield the power. They have had it long enough. If the Democrats come into power let all the worst of them retire. We have plenty of men every way their equals, socially, morally, intellectually, educationally, in any way you may put it. Why, then, should Democrats take a position in favor of proscribing men of that class of our own party, and keep in power those of the other party who have for so long a time been in office?

I do not know, Mr. President, whether there is any other amendment pending at the present time that has preference over those I have mentioned or not. If there is not—

The presiding officer (Mr. Morgan in the chair). The amendment of the senator from Iowa [Mr. Allison] is pending.

Mr. Brown. Then I give notice that I shall propose these amendments when they are in order.

Mr. Hawley. Before the senator passes from the point he has been just discussing, I should like to make a suggestion to him in the form of a question. There are in the departments quite a considerable number of Democratic employes and clerks, and some of them have been there ten, fifteen, twenty, twenty-five years. Now, I wish to know whether their continuance in the service with the testimonial in their favor that it has been under an adverse Administration because of their admirable record, whether the fact that they have been a long time in the service is so much against them that the senator would turn them out also?

Mr. Brown. I would put them on their merits, Mr. President. If their practices were clean and their conduct right, if they had behaved themselves well, I would not turn them out simply because they held office under Republicans, and I would not probably turn out every Republican there who held an office and showed a fair and clean record; but I would do this: I would so amend this bill that any one outside who was the superior of either of them might come in and compete for the place, and if he took it by virtue of his merits and his qualifications over either a Democrat or a Republican I would let him do so. This would be true civil-service reform. Both parties must be fairly represented in the offices before any such enactment will meet with public favor or produce any beneficial results.

If my amendments are not acted on this afternoon, I shall ask that they be printed and laid on the table by the morning session.

SPEECH OF HON. JOSEPH E. BROWN, OF GEORGIA, DELIVERED IN THE SENATE OF THE UNITED STATES, JANUARY 8, 1883, ON THE RIGHTS OF THE CITIZENS OF THE LATE CONFEDERATE STATES TO THE \$10,000,000 NOW IN THE TREASURY, WHICH IS THE PROCEEDS OF THE SALE OF THEIR COTTON AND OTHER PROPERTY SEIZED BY THE AGENTS OF THE GOVERNMENT, THE EFFECT OF THE PRESIDENT'S PARDON ON THEIR RIGHTS CONSIDERED, ETC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 684) to afford assistance and relief to Congress and the Executive departments in their investigation of claims and demands against the Government.

Mr. Brown said:

Mr. President: I desire to give notice first of an amendment which I shall offer to the bill whenever it is in order to consider it. I wish to have the amendment read:

The Principal Legislative Clerk. It is proposed to add as an additional section to the bill the following:

SEC. —. That the right of action in said Court of Claims under the provisions of the captured and abandoned property acts, where the money arising from the sale of the property is now in the Treasury of the United States, be, and the same hereby is, revived and extended for two years from and after the passage of this act, including all cases of seizure under said act, or under color thereof, without regard to any statute of limitations; and all claims for such property not filed in said court within that period shall be forever barred: *Provided, however,* That where any of such claims have been filed before the Secretary of the Treasury, and proof taken in relation thereto, under the provisions of the fifth section of the act of May 18, 1872, the proof so taken, whether upon the part of the Government or the claimant, where it is made

to appear by affidavit that the witnesses are dead or cannot be found, shall be used in evidence in the said Court of Claims as though taken in pursuance of the rules of said court, and the Secretary of the Treasury, upon the call of said court, on the motion of either party, shall transmit said proofs and all the papers in the case to the said Court of Claims.

I think the bill before the senate to refer the large number of claims of different characters, involving investigations of questions of fact, to be audited at least by the Court of Claims, for I believe that is about the effect of the bill, is a good one in its main features.

I do not approve, however, of the section that requires of the suitor in that court, or the claimant, any proof as to his loyalty during the war. I deny, under the Constitution and laws and the amnesty proclamations of the President, that any such proof can be required of the claimant who did participate in the rebellion. That question has been before the Supreme Court of the United States again and again, and that court has decided the identical question, as I understand it, that a claimant who did participate in the rebellion, and who has been pardoned by the President of the United States, may prefer his claim in the Court of Claims without the allegation or proof that he did not participate in the rebellion.

Therefore I think that provision of the bill now before the senate is objectionable in a twofold sense: one, that it would be a violation of the Constitution, of the proclamations of the President, and the laws as they now stand; and another, that it tends all the while to keep up the distinction between those who were once engaged in rebellion, as it is now termed, and citizens who were not so engaged, though all are now loyal, all are enjoying alike the privileges of the Government, and each sharing his part in its burdens.

Mr. Cameron, of Wisconsin. Will it interrupt the senator if I ask him a question?

Mr. Brown. No, not if you confine it to a question. This is a subject that we differ, probably, a good deal about, and I would prefer to proceed with my argument without too many interruptions, though I am not captious about it. I will hear the senator.

Mr. Cameron, of Wisconsin. Has the senator ever looked at the question in this view: that the decisions of the Supreme Court to which he refers had reference to a court that had jurisdiction to render a judgment in the case? Under this bill the Court of Claims has not authority to render judgment, but merely to find the facts and report the facts to Congress; and in the cases that are referred to that court by departments of the Government they are required to find the facts and the law. Suppose Congress, instead of referring these cases to the Court of Claims, had said, "We will refer them to the Attorney-General and impose upon him the duty of examining them and reporting the facts to Congress," would or would not that be constitutional, and would not Congress have a right to refer any class of cases that it pleased to the Attorney-General if it saw fit to do so?

Mr. Frye. If the senator will pardon me one moment, as I understood the amendment offered by him it goes the full length; it gives full and complete jurisdiction to the Court of Claims in the abandoned property claims. That is as I understand the amendment.

Mr. Brown. I prefer to proceed with my argument in my own way. I think I shall cover all the ground, before I take my seat, that senators have called my attention to, and it rather breaks the thread of my argument and disjoins the different propositions that I may have connected together to have to submit to frequent interruptions. As I say, I am always willing to be interrupted if it is thought important by any senator, but I shall cover the ground mentioned by both the senators before I take my seat.

Now, Mr. President, before I proceed further with the discussion, I desire to remark that at the opening of the last session of Congress there were two funds lying in the Treasury of the United States, each in amount about \$10,000,000, to which the Government of the United States set up no just or equitable claim, but the authorities of the United States admitted that the money belonged to private individuals or firms, persons in legal contemplation, either artificial or to natural persons.

One of these funds was known as the Geneva award fund. We had held a convention with Great Britain, and had agreed upon an arbitration of the mutual claims and charges that each government had against the other, especially pertaining to matters growing out of the action and conduct of the Confederate cruisers during the war.

The award given to the United States by the arbitrators was, as we thought, a liberal one—fifteen and a half million dollars. Something over five millions, or from five to seven millions, of that amount paid all the claims that the loyal people of the United States, as they were termed and known during the war, the ship-owners and those engaged in transportation upon the high seas, had suffered so far as related to property captured or destroyed. After all that was paid there was a balance of about ten millions left in the Treasury. It was claimed, and as I thought justly, by the people of the New England States and of the Middle States mostly, for they were generally the parties in interest—there may have been some exceptions—that they ought to have the balance of that amount on account of losses that they had sustained during the war, not by the actual seizures of their property by the Confederate cruisers upon the high seas, but that they had sustained heavy losses on account of marine insurance and war risks that they had to pay as merchants during the war. For instance, there were two merchants in New York trading abroad; one put his goods under a foreign flag, brought them here on English bottoms, and he got a very low rate of insurance because there was no war risk. Another merchant next door shipped articles of like character from foreign ports to ports in the United States, and he chose to ship them on American bottoms. They were subject to capture by the Confederate cruisers, and he had to pay 3, 4, or 5 per cent. more insurance upon them. He claimed, and it seemed to me very justly, that he labored under very great disadvantage as compared with his neighbor because he chose to patronize American vessels and shipped by them, while his neighbor shipped upon foreign vessels. That class of citizens came and asked us—and there were other classes which I need not stop to mention—to pass an act of Congress for their relief, to distribute this balance of about \$10,000,000 of the Geneva award that lay in the Treasury of the United States among the classes of claimants who were thus interested.

There was at that time another fund of about \$10,000,000 lying in the Treasury of the United States that the United States had as little or less claim to than it had to the balance of the Geneva award. That was a fund which arose from the sale of captured and abandoned property during the war and during the reconstruction period soon after the war. For months, and probably I might say a year or two, after the surrender of Lee's and Johnston's armies, the property of the Southern people had been seized by the agents of the Treasury Department, under the authority of the act of Congress known as the captured and abandoned property act, and it had been sold and the proceeds paid into the Treasury of the United States, and it lay there, not the property of the United States, because, as the Supreme Court of the United States has said, the United States was trustee for the true owner of it. It was like the Geneva award fund, only I think with a stronger equity against the Government. It lay in the Treasury of the

United States, and lies there still. Why did it lie there? Because there was a statute of limitations, of which I shall speak at a later period in my remarks, that bars the claimant and owners from going into court to recover this money. So in the case of the Geneva award there was no law which authorized the claimant to draw it without an act of Congress. Therefore neither of these large funds in the Treasury, which did not belong to the United States Government, could be reached without legislation.

When the bill was up to distribute the Geneva award fund I proposed to offer an amendment to it making provision also for the removal of the statute of limitations, so that this fund belonging to Southern citizens might be distributed, which lies now in the Treasury of the United States, and which is not claimed by the United States. I was asked by one or two senators on the other side not to do this. They said it would embarrass their case; that they had their measure then in a shape that it was likely to go through, and that we should consider this question on its merits and do justice at a subsequent period. I acquiesced in that view. As their measure had been matured and brought before Congress, and was in a shape that justice might be done, as I thought, I would not embarrass it by offering an amendment requiring the distribution at the same time of both these funds that lay in the Treasury that ought to be in the pockets of citizens of the United States. The result was that the act was passed for the distribution, under proper restrictions, of the Geneva award fund. Nothing has been done yet, however, for the relief of citizens of the Southern section of the Union, who own this other large fund of about equal amount. The first, the Geneva award fund, went almost exclusively to citizens of what are known as the Northern States, or the Middle and New England States I might say.

Mr. Hoar. Largely in California.

Mr. Brown. The senator says some of it went to California; at any rate, all went to what were known during the war as the loyal States. I believe that is a safe statement. On the other hand, the fund of which I am speaking would go almost exclusively to citizens of the Southern States. But the equities in each case, I think, are the same; in other words, as the Government did not own the fund, and did not claim to own it, and as citizens of the different sections did own it, those of one section being owners in one fund, and of the other sections in the other fund, I can see no reason why there should be a discrimination against citizens of my section; why money belonging to them, honestly and legally and justly theirs, should lie in the Treasury undisturbed because it is necessary to have legislation to remove the bar of the statute, when in the other case we passed an act of legislation removing whatever obstacles there might be in the way of the distribution of the fund. It is admitted that neither could be distributed without legislation.

Now I say to senators of what were formerly termed the loyal States, that we from the South interposed no difficulties in the way of your getting the Geneva-award fund; most of us voted for your bill, and it has been and is being distributed, I presume, and I think rightly so. Now we appeal to you to do us the justice to remove this bar of the statute, and let us come in and get the fund which honestly and fairly and justly belongs to our people, many of them widows and orphans. Remove the bar of the statute, and let us draw that fund, and let it go to those who are entitled to it.

Mr. Hoar. How much is that fund?

Mr. Brown. I do not know the exact sum; I understand it is about \$10,000,000, nearly the same amount that lay in the Treasury in case of the Geneva award undistributed. The two funds were practically of equal amount.

It has been said that this cannot be done because many of these claimants participated in the rebellion and forfeited their rights to sue in the courts, and that they cannot come now and claim the benefit of the fund on that account, even if the bar of the statute of limitations were removed.

Now, a word as to the bar of the statute. In March, 1863, the Congress of the United States passed a law known as the captured and abandoned property act, which was peculiar in its provisions. It authorized the Secretary of the Treasury to send his agents into the insurrectionary States and seize the property of the citizens of those States which were then regarded as in rebellion, and so declared by the authorities of the United States, with the exception of such property as munitions of war, vessels used for the promotion of the rebellion, and other property of that character, which Treasury agents had no right to seize, because such property if seized by the armies would become *ipso facto* the property of the United States. I should say, however, that prior to the passage of that act there had been one or more acts of Congress passed declaring the property of those in rebellion subject to confiscation, and tribunals had been provided for carrying that law into execution and confiscating the property of rebels.

But I ask senators to bear in mind that confiscation was not accomplished simply by act of Congress, nor could it be. It could only be done by trial and judgment in some court authorized by Congress to adjudicate the case. In other words, Congress had no right to declare any man a rebel and adjudge that he was guilty of treason without a trial in court, and Congress had no right to take the private property of any one in rebellion and forfeit it by act of Congress. It could only be done by a proper proceeding in the courts, unless it was such property as was used in carrying on military operations.

And I will here remark that the Government of the United States had adopted the modern law of nations on this question. They did not act on the practice that the private property of non-combatant enemies was liable to seizure as booty of war. Therefore they had no right, unless they departed from that wise and humane and just rule now practiced by modern civilized nations, to seize and confiscate the property of non-combatant enemies as booty of war, but must if they seized it make just compensation for it.

Chief Justice Chase, delivering the opinion of the court, said in the case of the United States *vs.* Klein, 13 Wallace, page 137 :

"The Government recognized to the fullest extent the humane maxims of the modern law of nations, which exempt private property of non-combatant enemies from capture as booty of war."

Then according to the opinion of the Supreme Court of the United States, as delivered by a Republican chief justice, who was an able statesman and an enlightened jurist, the Government practiced upon the rule that the private property of non-combatant enemies was exempt from seizure as booty. If this was so, of course it followed that it could not be taken without compensation.

That being the practice of the Government, it had no right to seize the property of non-combatants in the Southern States that were declared in rebellion and appropriate it to the uses of the Government of the United States without paying just compensation, as required by the Constitution. In other words, the Government was applying, and must apply if it complied with this modern rule of the law of nations, the same rule to the Southern rebel, as he was termed, who was engaged in war against the United States, that it would have applied to a subject of Great Britain or a citizen of Mexico if we had been at war with either of those powers. What would

have been the rule there? It would have been that the property of non-combatants seized for the uses of the army, where it was not of the character of ordnance, military stores, or the like, must be paid for by the Government. This is a necessary conclusion from the doctrine laid down by the chief justice already quoted.

But there were stronger reasons here why it should be so. No particular citizen of the South was known to the law to be in rebellion; no one of them was a traitor until he was tried and a competent court pronounced him such by its judgment. Then he became legally a traitor, and then his property might be confiscated or taken by a proper proceeding in court under a judgment of the court, but this could not be done as long as he was a citizen of the United States not convicted of treason, and he was, according to the theory of the Government, notwithstanding we had seceded, still a citizen, but a citizen in rebellion. The Constitution fixes that point and I desire to read it; I read from the fifth article of the amendments:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Therefore so long as he was a citizen the Government had no right to take his private property without paying him just compensation, unless he was convicted and deprived of his property by due process of law.

That being the status then of our people at and near the termination of the war, the Government had the right to proceed against a citizen who had participated in the rebellion as a rebel, and it had a right to push the case to the extent of the forfeiture of his property if his guilt were legally established. The forfeiture would have been subject to the provision of the Constitution of the United States. It had the right to proceed against him as a rebel if it chose to do so. The Government did not choose to do this in all cases. Indeed there was legal condemnation of property in but few cases.

What was the action of the Government? The executive of the United States, who had the pardoning power, interposed his pardon first to certain classes; or rather I might say that Mr. Lincoln's proclamation at first embraced everybody in rebellion who came in and took an oath and complied with certain conditions. Then at the end of the war—by the end of the war now I mean the surrender of Lee and Johnston—President Johnson issued his proclamation of pardon embracing almost all citizens of the United States, except certain classes upon whom he imposed certain restrictions and terms before they could be pardoned. At a subsequent period he finally issued a proclamation extending pardon and amnesty to every person who had engaged in the rebellion with full and perfect restoration of all his civil rights and rights of property. When this was done by the President of the United States, we were all placed back again, so far as our rights in the courts and our rights of property and our rights as citizens were concerned, upon exactly the same basis as any citizen who had never engaged in rebellion.

I want to refer to some authority on that point. I take the position that the pardon not only relieved the person pardoned, the person who had been in rebellion, from punishment, but it relieved him of every disability, and where it was a full pardon, and went to the extent of restoration of civil rights and rights of property, it placed him exactly in the same legal position

which he would have occupied if he had never committed the offence. I will read a little authority on that question, which is doubtless familiar to the senate, but it comes in the line of my argument, and I prefer to refer to it. The first is the case of *ex parte* Garland, 4 Wallace, page 380. The Supreme Court says:

"The Constitution provides that the President 'shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.' The power thus conferred is unlimited, with the exception stated. It extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is *not subject to legislative control*. Congress can neither limit the effect of his pardon nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him cannot be fettered by any legislative restrictions.

"Such being the case, the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both the punishment prescribed for the offence and the guilt of the offender; and when the pardon is full it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offence. If granted before conviction, it prevents any of the penalties and disabilities consequent upon conviction from attaching; if granted after conviction, it removes the penalties and disabilities and restores him to all his civil rights; it makes him, as it were, a new man and gives him a new credit and capacity.

"There is only this limitation to its operation, it does not restore offices forfeited or property or interests vested in others in consequence of the conviction and judgment.

"The pardon produced by the petitioner is a full pardon 'for all offences by him committed, arising from participation, direct or implied, in the rebellion,' and is subject to certain conditions, which have been complied with. The effect of this pardon is to relieve the petitioner from all penalties and disabilities attached to the offence of treason committed by his participation in the rebellion. So far as that offence is concerned, he is thus placed beyond the reach of punishment of any kind. But to exclude him by reason of that offence from continuing in the enjoyment of a previously acquired right is to enforce a punishment for that offence notwithstanding the pardon. If such exclusion can be effected by the exaction of an expurgatory oath covering the offence, the pardon may be avoided, and that accomplished indirectly which cannot be reached by direct legislation. It is not within the constitutional power of Congress thus to inflict punishment beyond the reach of executive clemency. From the petitioner, therefore, the oath required by the act of January 24, 1865, could not be exacted, even if that act were not subject to any other objection than the one thus stated."

Mr. Morgan. I should like to ask the senator from Georgia if he holds that if the property of a man who was engaged in the rebellion has been confiscated by the judgment of a court and that person is subsequently pardoned, that pardon has such relation back as to restore him to his rights of property notwithstanding the judgment of that court? That is the question I desire to ask the senator.

Mr. Brown. I will reply in the language of the Supreme Court just read:

"There is only this limitation to its operation, it does not restore offices forfeited or property or interests vested in others in consequence of the conviction and judgment."

There is no other exception; offices forfeited are not restored by the par-

don, and so far as the rights of others are concerned—for instance, informers—the pardon does not interfere with the rights of third persons; but so far as property forfeited by the judgment of the courts is concerned, if the rights of third persons have not attached, the pardon, I hold, restores the property forfeited and restores the party to all the rights that he had as though he had never committed the offence.

Mr. Morgan. The senator holds then, that notwithstanding there is a valid judgment of confiscation which remains unexecuted because the property has not been sold, the pardon of the President reverses and annuls that judgment?

Mr. Brown. I do; just as it reverses the judgment of conviction of treason.

Mr. Morgan. I am sorry I cannot agree with the senator in that proposition. By parity of reasoning also, why can he not hold that after property had been lawfully captured by an army in the field during the war, and had been consumed by that army after having been captured from an enemy, afterward the pardon of the President of a man who was then engaged in rebellion would restore him or give him a right of action against the Government for the property thus destroyed? I do not believe that the pardoning power has that extent.

Mr. Brown. I should prefer that the senator, as the senators on the other side have done, would make his interruptions as short as he can conveniently.

Mr. Morgan. I beg pardon.

Mr. Brown. I do not object to my attention being drawn to the point. I will state in reply to the senator, however, that it is not important to the objects of this discussion whether I be right or whether he be right on the point already mentioned, because the money I design to reach now for those who are entitled to it that arose from the sale of captured and abandoned property was not money forfeited by any judgment of any court of the United States. No, it has not been so forfeited. The Supreme Court has decided over and over again that it was not the intention of Congress to do that because no provision was made for its confiscation by any court whatever. Then the point between us is not an important one so far as this question is concerned.

Mr. Edmunds. Was it not forfeited as prize of war taken on land?

Mr. Brown. I stated distinctly at the outset of my argument that anything like ordnance or boats or ships used for the purposes of war and small arms and accoutrements and everything of that kind became the property of the captor immediately on capture, and in case of vessels, on judgment in the proper prize court.

Mr. Edmunds. Take the case of private property of enemies of the people which was turned into money and put into the Treasury and then came peace, what then?

Mr. Brown. I have just read, while the senator was absent, from the decision of Chief Justice Chase in the case of the United States *vs.* Klein what he has to say on that subject.

Mr. Edmunds. The senator need not read it again.

Mr. Brown. It relates to the very point to which the senator from Vermont calls my attention and is short, and I will read it for the benefit of the senator from Vermont.

Chief Justice Chase says:

"The Government recognized to the fullest extent the humane maxims of the modern law of nations, which exempt private property of non-combatant enemies from capture as booty of war."

Was that true?

Mr. Edmunds. But suppose there is a capture of booty of war, does it pertain to any judicial tribunal to undertake to give it back? Suppose the sovereign war-making power does not choose to recognize this humanity, but is savage, what then?

Mr. Brown. Then the party, if he be a citizen of the United States, as these former rebels were, and the rule was adopted as stated by the chief justice, may seek his rights in the courts or before the legislative department whenever he can establish that claim. The Constitution of the United States, which I read while the senator was out, says distinctly that no citizen shall be deprived of life, liberty, or property without due process of law, and that private property shall not be taken for public use without just compensation.

Chief Justice Chase says that the Government adopted to the fullest extent the humane maxims of the modern law of nations, that the property of non-combatant enemies is not liable to capture as booty of war. Then if these non-combatant enemies were citizens of the United States, when we come down to the dry legal question they have rights. But that is not what I am trying to get at now; I am trying to get money out of the Treasury which no one claims that the Government owns; which the United States do not claim; which the Supreme Court says the Government holds as trustee for the owners. I am trying to reach that, and nothing more. And it seems to me that there is no question of the character raised by the senator in the way. Whatever might be the trouble about a suit brought by any one for property taken when he was in rebellion—and I do not care to discuss that now—I think these provisions of the Constitution of the United States and the opinion of Chief Justice Chase would go very far in that direction. But I am only seeking to open the Court of Claims to the owners of the money now in the Treasury which the Government does not claim. But as I stated while the senator from Vermont was out of the Chamber, this captured and abandoned property act was, as the court said, a peculiar one. I desire now to read a portion of what the court does say on that subject.

I read from 13 Wallace, page 136. The court says:

"The answer to this question requires a consideration of the rights of property, as affected by the late civil war, in the hands of citizens engaged in hostilities against the United States.

"It may be said, in general terms, that property in the insurgent States may be distributed into four classes.

"First. That which belonged to the hostile organizations or was employed in actual hostilities on land.

"Second. That which at sea became lawful subject of capture and prize.

"Third. That which became the subject of confiscation.

"Fourth. A peculiar description, known only in recent war, called captured and abandoned property."

Now, it is the latter class only that I am dealing with in the amendment which I have proposed, and therefore it is not very important to me so far as the present discussion is concerned how the other questions may be ruled or what may be the opinion of the senate on them. But the court adds:

"It is thus seen that except to property used in actual hostilities, as mentioned in the first section of the act of March 12, 1863, no titles were divested in the insurgent States unless in pursuance of a judgment rendered after due legal proceedings." That idea is repeated in other portions of the opinion. "And it is reasonable to infer"—says the chief justice, on page 138—"that it was the purpose of Congress that the proceeds of the property for which the special provision of the act was made should go into the Treasury without change of ownership. Certainly such was the intention in respect to the property of loyal men. That the same intention prevailed in re-

gard to the property of owners who, though then hostile, might subsequently become loyal, appears probable from the circumstance that no provision is anywhere made for confiscation of it, while there is no trace in the statute-book of intention to divest ownership of private property not excepted from the effect of this act otherwise than by proceedings for confiscation."

Again he says, on the same page:

"In the case of Padelford we held that the *right to the possession of private property* was not changed until actual seizure by proper military authority, and that actual seizure by such authority *did not divest the title* under the provisions of the abandoned and captured property act. The reasons assigned seem fully to warrant the conclusion. The Government constituted itself *the trustee* for those who were by that act declared entitled to the proceeds of captured and abandoned property, and for those whom it should *thereafter recognize as entitled*."

I have a use for that in the latter part of this argument. The Government did recognize as entitled all who were pardoned without confiscation of property.

Mr. Edmunds. That is, the court said so, not Congress.

Mr. Brown. The court is now speaking of what it understands Congress to have held; at least I am reading the decision of the court, the decision of the Supreme Court of the United States, and I suppose as it is the highest judicial tribunal we have to take its decisions without going further. Again, on page 139 the chief justice says:

"The property of the original owner is *in no case* absolutely divested. There is, as we have already observed, no confiscation, but the proceeds of the property have passed into possession of the Government, and restoration of the property is pledged to none except to those who have continually adhered to the Government. Whether restoration will be made to others, or confiscation will be enforced, is left to be determined by considerations of public policy subsequently to be developed."

In other words, as I understand the court, they mean that there was provision in the captured and abandoned property act for a restoration of the property of all who did not aid or in any way participate in the rebellion. The property of the disloyal was not confiscated by this act, but its proceeds were put into the Treasury, the Government remaining, as the chief justice says, the trustee for the owner; and the question was held open whether Congress would direct the courts to proceed and in a legal way confiscate the property, or whether a different course should be taken as to the parties in rebellion who were entitled to the property and they restored to all their rights, civil and of every other character, with power to go into the courts and claim their property.

In this connection I desire to state that during the war President Lincoln issued more than one proclamation tendering amnesty. He had the authority of an act of Congress for doing so; but in a message to Congress he stated that that gave no additional force to it; he claimed the absolute power himself, and that Congress had no control over the pardoning power. He issued his proclamation declaring that all persons who would then lay down their arms and return to their allegiance, who, of course, could not swear that they had never taken any part against the Government, should be pardoned and restored to all their civil rights and rights of property. Padelford was one of the persons who availed themselves of this amnesty, the case to which the chief justice refers Klein's case, from which I have just read in 13 Wallace.

Mr. Cameron, of Wisconsin. Padelford's property was taken after he had taken the oath of allegiance, not before.

Mr. Brown. So I am aware.

Mr. Edmunds. That was the property of a loyal citizen.

Mr. Brown. That is the very point. Padelford's property was taken after he had taken the oath of allegiance, and therefore it was as the senator from Vermont says, the property of a loyal citizen, which I grant. Padelford had aided the rebellion and was pardoned. His property was the property of a loyal citizen only because he was pardoned. The property of every other Confederate who participated in the rebellion and who has been restored by the pardon of the President to all his rights of property becomes the property of a loyal citizen in like manner and for the same reason, and therefore he has a right in each case to go into court and claim his property. Congress has no right to interfere with the effects of that pardon, to destroy its legal consequences, to limit, abridge, or in any way take from the person to whom it was extended the full extent of the force and the benefits of the pardon.

That was attempted by the Drake amendment, as is well known to senators, and was the very point in the case which I have been reading in 18 Wallace. The Drake amendment proposed in substance—

Mr. Edmunds. That the Court of Claims should not have jurisdiction of certain class of claims. The Supreme Court said they should, although the act of Congress forbade it.

Mr. Brown. I will take the language of the chief justice on that:

"The substance of this enactment is that an acceptance of a pardon without disclaimer shall be conclusive evidence of the acts pardoned, but shall be null and void as evidence of the rights conferred by it, both in the Court of Claims and in this court on appeal."

The Drake amendment, therefore, attempted to exclude the pardoned person from a portion of the benefits of his pardon by denying to him the right to plead his pardon or introduce his pardon as evidence in a case before the Court of Claims. The Drake amendment laid down the rule that the pardon was good as proof that the claimant had participated in the rebellion if he accepted it without any qualification or protestation, but that it should not be given in evidence in any case where he could use it for the protection of his rights in court.

Mr. Hoar. May I ask the honorable senator a question?

Mr. Brown. If it is a short one.

Mr. Hoar. It will be, perhaps, a short one. I was a member of the committee that reported this bill. I should like to ask the honorable senator if he supposes it would be illegal for Congress to direct the attorney-general to examine and report the facts on a certain class of claims against the Government except those which arose in the State of Mississippi, or except those where the persons making them had taken part in the rebellion?

Mr. Edmunds. Or had red hair.

Mr. Hoar. Before the senator answers the question I will make a statement. We do not understand—perhaps we are wrong—that in this bill we are giving jurisdiction to a court or that any citizen is coming before a court with a legal right. In the Drake amendment there was a judgment of the Supreme Court of the United States on appeal from the Court of Claims provided for, and the Supreme Court, whether right or not, came to the conclusion that the senator has stated; but this committee have framed this bill under the belief, whether they are right or wrong, that they were simply taking a committee—they might just as well have taken a committee of the senate, or any other set of men, who should have the power to examine applications and hear both sides and report the facts—that the jurisdiction of Congress is retained in Congress just as it was before.

Every person who took part in the rebellion can come to Congress with

his petition for Congress to act upon just as before; but as there is not a man on either side of the Chamber who proposes to pay for this class of losses, and there cannot be found probably a prominent person in the country who so proposes, and as they amount to millions, we simply say to the Court of Claims, "You need not trouble yourselves to investigate or report on this class of cases." Does the senator suppose that if you took that bill and struck out the words "court of claims" and put in "the attorney-general of the United States" or "the chief clerk of the treasury department," it would be unconstitutional to let him make the report? That is the question I desire to put.

Mr. Brown. Oh, no; the senator knows very well that I do not hold it to be unconstitutional, and I was not saying it was, and my argument did not tend to any such conclusion. And I will remark that the senator does not state the Drake amendment correctly.

Mr. Hoar. I thought the senator cited the decision of the court on the Drake amendment to show that this was a similar case, and that they held it to be unconstitutional.

Mr. Brown. I referred to the case decided by Chief Justice Chase, and read from that. I have not denied the constitutionality of this reference to a court; but let me ask the senator now, suppose a bill of this character were to come up for action and we were to enact that all the States of the Union should have the benefit of it, except the New England States, because they got cross or disloyal during the war of 1812 and behaved badly and held the Hartford convention, and therefore that no disloyal New Englander and no person descended from any New England State should have anything to do with the investigation or have any rights under it, would he vote for it? If not, does he think a Southern senator should vote for this act, which makes this odious discrimination against the best class of the Southern people?

Mr. Hoar. If the Congress of the United States had been in the habit for twenty or thirty years, when the anti-war Democrats were in power, of rejecting various claims from New England on the ground that she behaved badly in the war of 1812, I have no doubt it would have been perfectly constitutional for the men who acted on that theory that those claims should not be paid, in providing a tribunal to investigate claims to say that that class of claims the tribunal need not trouble itself with, need not investigate, and anybody who thought they ought not to have been paid, would have been justified in putting that into the bill. Now we think, the senator and I both think, this class of Southern claims ought not to be paid. Therefore we say that the court need not trouble itself with them.

Mr. Brown. The New England States have never been backward, never tardy, in presenting their claims. And they have received a large and liberal share. They shared largely in the Geneva fund under act of last session. They have always got the full measure of their rights. They would be exceedingly restless and resentful of a proposition to exclude them from equal rights and equal privileges in any investigation of legal claims. As to the class of claims embraced in my amendment, I do not agree with the senator, and I do not believe he agrees with himself.

I am referring simply to the \$10,000,000 in the Treasury that Chief Justice Chase, in the opinion I have just read, said the Government holds as a trustee for the owners. I am referring to that class alone, no other claim or class of claims. I do not believe the senator from Massachusetts will say that ought not to be paid. Indeed, I believe he will, as an American senator, feel it his imperative duty to vote for my amendment. He knows it is just. He knows the money is in the Treasury, that the Government is trustee for the true owners, and that they are entitled to it on every principle of equity and good conscience.

Mr. Hoar. Admitting that to be so, does not the honorable senator agree with me that there is no occasion to refer the cotton claims to the Court of Claims? We know all about the facts. That is a question that Congress can settle as well as anybody else. Then why should they be put into the bill?

Mr. Brown. It is not a question that Congress alone can settle. Two things should be done. One is the removal by Congress of the bar of the statute of limitations that prevents the owners of this fund from suing for it in the Court of Claims, and the other is a provision to try each case and see who is entitled to the property; this must be done in court. I do not believe the senator from Massachusetts can, and I doubt whether there is any senator here who can afford to vote against a measure that is so obviously just. Certainly no senator can whose constituents have the benefit of the distribution of the Geneva award voted them in large degree by Southern senators. I do not believe any one of them can afford to vote that the true owners of this fund, many of them widows and orphans, shall not be permitted to pursue their rights in the Court of Claims and have them adjudicated there. I do not believe there is that much prejudice now existing. Hostilities ceased some eighteen years ago, and almost a generation has passed since that time; and the people, whatever politicians may think about it, have become tired of the distinctions of loyalty and disloyalty. We are now all trying to be loyal. In each section we are vieing with each other who can do most in loyalty for the general good of the whole people of the United States. Why retain these distinctions or discriminations? Would the senator from Massachusetts, if the case were reversed, vote for a bill which made any such provision or discrimination against New England? Clearly not. Not a New England senator here would vote for it. If the discrimination were made against the people of any other section, the Western or Middle States, they would spurn the idea and would resist it to the last moment. Why then should they ask us of the South, eighteen years after the war has closed, to sit by and quietly vote for a provision, that even in an investigation of this character in the Court of Claims where the facts are to be brought before Congress, the rights of the Confederate shall not be considered, and no evidence shall be received in his behalf to sustain his rights, until he first swears and proves that he was always loyal to the Government during the war? We have passed that day. The Supreme Court has passed it over and over again.

A word as to that statute of limitations. How happened it that these suits were not brought within the time allowed? The act was passed in 1863, when the war was raging in its deadliest fury. Provision was made for the seizure of this property, provision was made for the sale of it, and the payment of the proceeds into the Treasury of the United States, and that the money lie there until the true owners could produce proof of their ownership. If they were loyal it was provided they might have time to do so; if they were disloyal there was no provision made for confiscation, but the money lay there subject to the future disposition of the Government. At a subsequent period the Government proclaimed, through its proper department, amnesty and pardon to everybody, and opened the doors of the courts and of the Court of Claims again to those who were the claimants and owners of this fund.

You may ask why did not everybody avail himself of the benefit? For this reason: Nobody knew, not even the Supreme Court of the United States at the time, when the statute of limitations commenced to run, or when the right of action was barred.

It was provided in the captured and abandoned property act, that it should

commence to run at the time of the suppression of the rebellion, and it should run two years from that time. When was the rebellion suppressed? That was a question which perplexed the heads of the wisest men of this country for a long while. Was it suppressed when Lee and Johnston and Kirby Smith and every Confederate commander laid down his arms, and all the people of the Southern States returned to their allegiance and submitted to the laws of the United States? Was it suppressed when the post offices were all opened, post-roads established, postmasters appointed? Was it suppressed when the courts were opened and when everybody's rights could be adjudicated in court, when everything was going on orderly and peacefully? Was it then suppressed, or when was it suppressed? That question was never decided until about one year and a half after the time that the statute of limitations is now held to have run and to have become a complete bar.

At the fall term in 1869 the Supreme Court of the United States, the present honored President of the senate, I believe, delivering the opinion, held that the rebellion was finally suppressed when President Johnson on the 20th of August, 1866, issued his proclamation declaring its suppression. Then it had two years to run from that time, and on the 20th of August, 1868, the bar of the statute was complete. Who knew that fact? It was not known to any of the departments of the Government of the United States; it was not known to the Supreme Court of the United States until the year following the time when the decision was made to which I have just referred. I allude to the case of *The United States vs. Anderson, 9 Wallace*, which was adjudicated at the December term, 1869, a year and some months after the bar of the statute had completely attached, when the Supreme Court of the United States ruled fixing the time when the rebellion was suppressed.

Why did not these claimants within the two years commence proceedings in the courts to recover the money which was due them in the Treasury for their cotton and other property sold? They did not do it because they knew nothing of the time when the statute commenced to run or when the bar attached. Not only that, we were then in the throes of reconstruction, we were then almost in a condition of anarchy and great confusion; we were a portion of the time under military dictators, and we did not know one day what our fate was to be the next.

Take my own State for instance. Up to the very time or even after the time that the bar of the statute had completely run, a military dictator sat in Atlanta and removed the governor of the State from his office and appointed a military man in his place. He also removed the treasurer of the State from office and he appointed another in his place. He removed judges and appointed others in their places. This was done even after the period when according to the ruling of the Supreme Court the time within which suit could be brought had absolutely expired. Not only that, but subsequent to that period of time a military dictator sat in his seat at Atlanta and ordered, like Cromwell of England, the Legislature of Georgia to disperse, and sent an outsider not a member to take the chair and reorganize the Legislature. That was the state of things in the South at the time this bar of the statute of limitations attached against these Southern claims.

Another thing should be remembered. There had been great confusion, great trouble, destruction of property, destruction of railroads, and the means of communication were nothing like what they now are. Large numbers of persons who were interested in this property had been killed in battle or died in service; their widows and orphans knew nothing about this statute. They knew not that there was any probability that they would ever get any

compensation. They did not know that there was provision made for the commencement of suits in the Court of Claims until long after the time had expired. Their cotton and other property were taken from them by the military after the surrender of Lee and Johnston, sent to New York, and sold, and the money put into the Treasury of the United States. The chief justice of the United States says the United States Treasury had no right to it; that the United States is a trustee for the owners. And yet in the face of all these facts shall it be said that the Congress of the United States denies to these claimants the right to come into the courts and litigate their rights and establish them by the judgment of the courts of the Union? Surely this is not the feeling of honorable senators or of honest men in or out of this Chamber.

I see no room for any politics in this question. It is a simple question of sheer justice. Will you permit these parties, widows and orphans—a large portion of them—as I have said, to whom this property belongs, which was seized and taken from them and the proceeds paid into your Treasury, to come and establish that fact in your courts and draw their proportion, or will the Government of the United States deny that right to her citizens who are now, and in contemplation of law have always been, loyal? This is all I am asking for. I am not asking you to extend the law a particle further, to embrace any other claim of any character, only the simple claims of those whose property was seized and sold, and who can establish the fact that the money now in the Treasury belongs to them under the rulings of the Supreme Court, because it arose from the sale of their property. I simply ask the senate to remove the bar of the statute, and let them be heard.

Is it unreasonable? Will you deny to a large and needy class of your citizens this simple measure of justice? But I may be met here by the objection, and I was on that part of the argument when I was drawn off by the long question of the senator from Massachusetts, that the owners of this cotton and other property, or many of them, were disloyal to the Government, and that they cannot now come into the Court of Claims and establish their right unless they can show that they were always loyal. I say the Supreme Court of the United States has ruled the exact reverse of that. It has held that a party after he has been pardoned is placed exactly where he would have stood if he had never been disloyal, and has a right, having been pardoned, to come into court and litigate his rights just as though he had never engaged in the rebellion. The Padelford case I have already referred to. There Mr. Padelford availed himself of President Lincoln's proclamation, and after he had taken the oath, complying with the terms and conditions of the proclamation, his property was seized. What says the Supreme Court on this subject? I read from 9 Wallace, page 543:

"But it has been suggested that the property was captured in fact, if not lawfully, and that the proceeds having been paid into the Treasury of the United States, the petitioner is without remedy in the Court of Claims unless proof is made that he gave no aid or comfort to the rebellion. The suggestion is ingenious, but we do not think it sound. The sufficient answer to it is that after the pardon no offence connected with the rebellion can be imputed to him. If in other respects the petitioner made the proof which under the act entitled him to a decree for the proceeds of his property, the law makes the proof of pardon a complete substitute for the proof that he gave no aid or comfort to the rebellion. A different construction would, as it seems to us, defeat the manifest intent of the proclamation and of the act of Congress which authorized it. Under the proclamation and the act, the Government is a trustee, holding the proceeds of the petitioner's property for his benefit; and having been fully reimbursed for all expenses incurred in

that character, loses nothing by the judgment, which simply awards to the petitioner what is his own."

That is Padelford's case, and it comes exactly to the point that the pardon when established stands in lieu of the proof that the claimant was loyal during the war.

I desire on that same point also to refer to the case of *Armstrong vs. The United States*, 13 Wallace, 154. The syllabus is:

"1. The President's proclamation of the 25th of December, 1868, granting 'unconditionally and without reservation to all and every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason against the United States, etc., with restoration of all rights, privileges and immunities under the Constitution and the laws which have been made in pursuance thereof,' granted pardon unconditionally and without reserve; and enables persons otherwise entitled to recover from the United States the proceeds of captured and abandoned property, under the abandoned and captured property act, to recover it though no proof be made, as was required by that act, that the claimant never gave any aid or comfort to the rebellion.

"2. The proclamation referred to is a public act, of which all courts of the United States are bound to take notice, and to which all courts are bound to give effect."

The case of *Pargoud vs. United States*, 13 Wallace, page 156, is to the same point:

"APPEAL FROM THE COURT OF CLAIMS.

"Pargoud filed a claim in the court below to recover under the abandoned and captured property act the proceeds of certain cotton. This act, as by reference to its provisions on page 151, *supra*, will be seen, makes 'proof that the claimant had never given aid or comfort to the late rebellion' a prerequisite to recovery. Pargoud's petition, however, averred no loyalty at all. On the contrary, it set forth in the first sentence of it 'that he was guilty of participating in the rebellion against the United States,' adding, however, 'that he had been duly and legally pardoned for such participation by the President of the United States: and that he had received a pardon under the great seal, dated on the 11th day of January, 1868, which had been duly accepted by him, and that his acceptance, duly notified to the Secretary of State, was now on file in the office of that Department; and that he had complied with all the legal formalities in such case made and provided, and under the proclamations of amnesty and pardon issued by the President of the United States, now stands and is entitled to be considered in law as if he never had, in point of fact, participated in the late rebellion against the United States, and consequently he now avers that in legal intentment and under the allegations already made he has at all times borne true allegiance to the Government of the United States; and that he has not in any way aided, abetted, or given encouragement to the rebellion against the United States.'"

The Chief Justice says:

"We have recently decided, in the case of *Armstrong vs. United States*, that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated directly or indirectly in the late rebellion, relieves claimants of captured and abandoned property from proof of adhesion to the United States during the late civil war. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States."

And they reversed the judgment of the Court of Claims, which had required proof of loyalty after pardon.

The case of *Armstrong's Foundry*, decided in 6 Wallace, 766, is to the same purport, so far as the effect of the pardon is concerned. That case arose under the confiscation act of 6th August, 1861. That act makes property used in aid of rebellion with the consent of the owner, subject to seizure, confiscation and condemnation. The property was seized under this act, and the Supreme Court held that the President's pardon relieves such owner from the forfeiture of the *property* seized, so far as the right accrues to the United States.

Let me recapitulate some of the points involved.

There are about \$10,000,000 in the Treasury of the United States which arose out of the sale of captured and abandoned property, as it was called, of Confederates who are now citizens of the Southern States. Part of it belonged originally to loyal citizens of the South during the war. These citizens were permitted by the act of March, 1863, to file their claims at any time within two years after the suppression of the rebellion, and, on proof of loyalty and of ownership, to recover the proceeds of the sale of the property.

In December, 1863, the President of the United States proclaimed universal pardon and amnesty to all persons engaged in the rebellion. This relieved such owners of this fund as had participated in the rebellion from all legal guilt and placed them on precisely the same legal footing as those who had not participated in the rebellion; but the period of the statute of limitations, as I have already shown, was two years from 20th August, 1866, to 20th August, 1868, so that the bar of the statute had completely attached before the President's pardon restoring those who participated in the rebellion to all their legal rights. They therefore never had an opportunity to file their claims in the Court of Claims to the part of the fund belonging to them. Many of those who were loyal knew nothing of their legal rights or of the terms of the act of 1863, passed during the war, for the reasons I have already given, until after the bar of the statute had completely attached. The authorities, including the Supreme Court of the United States, did not know when the statute commenced to run or when the bar of the statute became complete until many months after all right of action was barred by the statute.

The Supreme Court have held repeatedly that the Government does not own this fund, but holds it as a trustee for the true owners. They have also held that the pardon of the claimant who participated in the rebellion placed him on the same legal footing of loyalty as the man who did not participate in the rebellion, and gives him the same right to recover. Instead of proving his loyalty, he proves his pardon, and that the Supreme Court says shall be received in place of the proof of his loyalty.

There can be no possible dispute about the facts. The fund is in the Treasury. It is not pretended that it belongs to the Government of the United States. It is admitted that the Government holds it as trustee for the owners, and it is admitted that the owners, whether they participated in the rebellion or not, would, under the decisions of the Supreme Court, be entitled to recover the fund, if the bar of the statute of limitations were removed. That bar attached, under the peculiar circumstances above mentioned, during a period closely verging on anarchy in the Southern States, when there was great uncertainty and confusion among our people. In a word, it was in the stormier periods of reconstruction. Under this state of the case the owners of this fund knock at the door of Congress, and ask that the bar of the statute be removed, and that they be permitted to commence

proceedings in one of the courts of the Union for the recovery of money admitted to be justly and legally their due.

Can Northern senators afford to vote against a bill that does this simple act of justice to a large class of worthy, honest, and conscientious citizens of part of the States of this Union? It seems to me it is impossible.

Now one word more on this point. I will neither be misunderstood nor misrepresented on this question. My amendment asks for no reopening of the issues of the war. It does not ask for any enactment that would make the Government liable to Southern war claims, or that would make it necessary to appropriate one dollar out of the public Treasury to meet any claim of that character. Whatever may be the effect of the Constitution, the statutes, the proclamations of the President, and the rulings of the Supreme Court upon the legal status of such claims, I do not ask to disturb in the least particular their present status. I ask for nothing but the passage of an act that secures to the legal owners of the fund, now in the Treasury, not claimed by the Government, which arose out of the sale of the property belonging to those legal owners, the right to establish their claims in court, and to be treated as other American citizens are treated when they have established them by proof that cannot be controverted. By the fifth section of the act of May 18, 1872, all cotton seized after the 30th June, 1865, by agents of the Government, unlawfully, and in violation of their instructions, of which the proceeds were paid into the Treasury was to be paid for by the Government without regard to the loyalty of the owner. But the claim must be filed in the Treasury within six months after the passage of the act. And the act does not apply to any claim then pending in the Court of Claims. But this act only applies when the agent of the Government acted illegally, and in violation of instructions.

The President *pro tempore*. The hour of 2 o'clock has arrived.

Mr. Brown. I have said substantially what I desire to say. There is a brief in connection with the subject, prepared with some care, which, if there is no objection, I will put in the Record in connection with my remarks, and as the hour of 2 has arrived I yield the floor to the regular order.

SPEECH OF HONORABLE JOSEPH E. BROWN, OF GEORGIA, IN THE SENATE OF THE UNITED STATES, TUESDAY, JANUARY 23, 1863. HE GIVES HIS VIEWS ON THE TARIFF AND THE INTERNAL-REVENUE SYSTEM; ON BESSEMER STEEL, RICE, &c.

The bill (H. R. 5538) to reduce internal revenue being under consideration, and the pending question being on the amendment of Mr. Miller of New York, to increase from 60 cents to \$1 per ton the duty on iron ore—

Mr. Brown said:

Mr. President: I have said nothing on this very important question, and I do not know that I should utter a word now were it not that when I asked a question this morning when the senator from Texas [Mr. Maxey] was making some remarks in reference to the importation of steel rails the senator from Kentucky [Mr. Beck] thought proper, in a manner a little excited, to assign me a position on this question that I do not occupy. I do not believe my friend intended to do injustice. I have usually found him, in fact, I may say I have always found him fair, just, and reasonable. He made the statement that I would vote for 100 or 150 per cent. and for protection's sake. Now, I say most distinctly that I occupy no such position.

Mr. Beck. The senator will allow me. I think he will not find when the reporter makes out the Record that I made such an assertion.

Mr. Brown. I so understood it. I do not know how it may appear in the Record.

Mr. Beck. I never intended to make such an assertion, if I did.

Mr. Brown. I did not think the senator did, but I so understood him, and I think that was the language or very nearly the exact language he used. And I wish now to say with emphasis that I occupy no such position on this question. On a former occasion, at the last session of Congress, when I addressed the senate on this question, my honorable friend from Kentucky did me the honor to hear me most of the time. In those remarks I was very careful to negative any such idea.

I am utterly opposed to levying one dollar of tax on the people of the United States for protection alone. I am in favor as soon as it can possibly be done of raising all the tax necessary to support the Federal Government upon imported articles, as I have avowed again and again upon this floor. I am utterly opposed to the present internal-revenue system. It was a war measure, adopted as such, never intended at the time to be fastened permanently on the people of this country, and it never ought to be. That system entails upon us, in addition to the expense we heretofore had to bear of collecting the revenues, the cost of another army of collectors—inland collectors—who are increased by a process of indefinite expansion when a political campaign comes on; and many of them are used as very efficient political agents to advance the interests of the party in power. That is not all. Nothing has done so much to annoy the citizens of this country, to vex and harass them—I mean nothing in the shape of legislation for the collection of revenue—as has the working of this internal-revenue system.

Under the law governing the system, or at least under the practice, and they claim that it is justified by law, and I believe it is, by what purports to be law on the statute-book, the collector of internal revenue sends his deputy out upon a raid whenever he thinks proper to do so. He issues his summons to his henchmen, and gathers around him whatever force he desires. He goes into the country in search of illicit stills, as the excuse is. What power does he go armed with? If he finds a still running where there is not a license, he resorts to no judicial proceeding; he seizes it, destroys the still or takes it from its place and carries it away, destroys the beer or any other articles that he may find in the distillery that he thinks proper to destroy, and seizes the property of the distiller and carries it off, and many times he takes property in no way connected with the running of the distillery. This is done by an agent of the Government of the United States, which Government has in its Constitution the distinct provision that private property shall not be taken for public use without just compensation; and provides distinctly that no one shall be deprived of life, liberty, or property without due process of law.

This system is even carried so far that if in these raids the revenue collectors find a man at a distillery, though he had nothing to do with distilling, if he becomes alarmed and runs at their approach, yet if they raise their firearms and shoot him down, the courts of the State are not permitted to try his murderers as criminals. In such case the demand comes for a transfer of the case to the Federal courts, and it is so ordered, because this raider, with his posse, who goes around through the mountains or the valleys hunting stills, is claimed to have been an agent of the Government, and acting under its authority while he was out destroying the property of the citizen without warrant or authority or the judgment of any court for doing so, and if any one offers resistance, nay more, if any one flees even and does not stop

when commanded and is shot down, the State courts are held to have no jurisdiction, and this agent of the Government is put on trial in the United States court and the United States district attorney is ordered to defend him. A mockery of justice!

Thus the Constitution and laws of this country, I mean the Constitution and all laws passed in conformity to it, are trampled under foot recklessly and tyrannically in the execution of this system. And yet some of the senators in this Chamber, who are very denunciatory of almost any kind of tariff, are sticklers for the continuance of the internal-revenue system. I would abolish it absolutely. I would do away with this army of collectors and these illegal raiders. I would destroy the power and monopoly of the great whiskey ring, and I would collect the revenue at the ports of this country, as our fathers collected it, and as it was always done except when the exigencies of war required extreme measures.

On what principle should we collect it? Which is better, the tariff system always practiced as most satisfactory to the people, or the internal-revenue or direct-tax system? It must be done by one system or the other. We must have money to support the Government.

It is very easy to appeal to the prejudices of the populace on this question. No matter what sort of tariff is proposed, what the per cent. is upon any article; no matter what the duty is on clothing or food or trace-chains or looking-glasses or anything else that has been mentioned and discussed here, how easy it is to say were it not for the tariff our people would buy it for 20 per cent., 30 per cent., 40 per cent., or 50 per cent. less than they now pay. That is true, and it applies to every article that is protected by a tariff; and every article produced by us upon which a tariff is laid is protected to that extent. But how are you going to get rid of it? What is your remedy for the protection of the people in that case? They can be protected against all these exactions of tariff and all tariff protection in one way, and that is to collect all the revenue this Government needs by internal taxation and collect none of it at the ports. Then we should have the pure, genuine, unadulterated free-trade principle carried out. Are senators ready to adopt that plan of collecting the revenue? If they are, those who take that position draw the line sharply and distinctly between them and other senators who believe that the revenue should be collected by a tariff. We must have a certain amount of revenue each year to support this Government; how much I do not know. Our last appropriation bills, with all the other demands of the Treasury, I believe were stated on the last night of the last session to amount to about \$100,000,000.

Mr. Davis, of West Virginia. Four hundred and three million dollars.

Mr. Brown. The honorable senator from West Virginia says \$403,000,000 last year. I thank him. How much less is it to be this year? The senator from Kentucky [Mr. Beck] is on the committee on appropriations.

Mr. Davis, of West Virginia. I will say to my friend from Georgia that the secretary of the treasury estimates \$415,000,000 for the next year.

Mr. Brown. The senator from West Virginia, a member of the committee on appropriations, now says that the secretary of the treasury estimates \$415,000,000 for this year, and \$340,000,000 of that I understand is for necessary expenses. It may be that the senator from Kentucky and his colleague upon the committee on appropriations will find some way of cutting down the appropriations immensely. If they do so, and it is practicable and just, I will vote with them most cordially, for I desire to say here that the affairs of this Government should be administered economically. All extravagance should be cut off and not a dollar should be raised that is not necessary for

the economical administration of the Government. If, however, it takes \$415,000,000 a year to run it, or suppose we drop the \$15,000,000 on account of the economy that the committee on appropriations is going to exercise in recommending appropriations, then it is \$400,000,000 a year that we have to raise.

How is it proposed to do it? We must meet the question like sensible men and like statesmen. We must support this Government, and we must raise all the funds absolutely necessary for that purpose. Assuming that it will be not less than \$400,000,000 next year, how do you propose to raise it? By a tax on customs, that is upon imported goods, or by an internal tax upon the people of this country levied directly? How is it to be raised? I repeat. If by tariff, we need not be so very exact about just how much we put on each article. We shall get some too high and some too low, perhaps, for it is very hard to adjust it right, but we need not stickle about small per cents. in it, because it will take a large tariff to raise that amount. Even with your internal-revenue system, which is clung to with so much tenacity by some senators, you will be obliged to raise about \$250,000,000 by tariff taxation, if I may use that expression.

Mr. Beck. Before the senator proceeds further, will he allow me to suggest one thing that has occurred to me several times?

Mr. Brown. I do not wish to give way for a speech.

Mr. Beck. I do not wish to make a speech; I desire only to suggest to the senator from Georgia that all the revenue raised from whiskey and tobacco goes into the Treasury of the United States, and therefore prevents the necessity of raising anything more than the revenue actually paid, whereas Mr. Oliver says \$28 a ton on Bessemer steel, out of which millions have heretofore been raised, is now prohibitory, and that tax so kept up will make the people of the country pay \$28 a ton more than the steel rail is worth, and yet not pay a dollar into the Treasury and not enable us to decrease taxation anywhere else.

Mr. Brown. At a later period in my speech I will come to that Bessemer-steel question. I have heard my friend from Kentucky, I think, something less than three hundred times on that question in the senate.

Mr. Beck. And you have been greatly annoyed, no doubt, every time.

Mr. Brown. I have always been ready to vote for a reduction of the tariff on steel rail. There is another side to that picture. It is true the difficulty the senator mentions has been one in the way, but I even prefer that to the system which he advocates, the practical working of which is for a raiding band of its agents to go out and shoot down citizens with impunity.

Mr. Beck. One word more, and I will not trouble the senator again. He even prefers that Bessemer steel shall be taxed \$28 a ton, absolutely prohibitory and yielding no revenue, rather than to have a revenue raised by means whereby all that is paid goes into the Treasury.

Mr. Brown. No, that is not what I said. The senator shall not misrepresent me in that way. I mean now, as between the two systems, that I prefer the tariff system even with some evils connected with it, rather than his system, or the one he advocates, under the practical workings of which the property of the citizen is destroyed without warrant or authority, and the citizen is shot down with impunity.

Mr. Beck. That same thing is done under the customs laws quite as bad.

Mr. Brown. I have not known instances of it. I do not think the senator can point to them. If he will go to the mountains of North Carolina, Georgia, Alabama, and Tennessee he can find plenty of instances such as I have mentioned under the internal-revenue system. I have not heard of them under the customs laws, and I do not believe they exist there. I have

heard of no case where a citizen was shot down there for running when he was told to stand by an agent of the United States and then the criminal carried into a United States court for a mock trial and there acquitted, the United States district attorney defending him. I know no such case. I venture to say the senator from Kentucky cannot furnish the instance. Will he name the case? It does not exist.

But now a word—

Mr. Harris. The senator from Georgia certainly does not mean—

Mr. Brown. I cannot be interrupted by all the senators, because I want to go on and make my argument. They will have ample time to reply to me after I have done. I certainly do not intend to be discourteous to any senator.

Mr. Harris. I simply desired to inquire of the senator if he meant to say that there was anything in the internal-revenue law authorizing the acts to which he refers; if he does not refer to acts of crime in violation of that and all other laws?

Mr. Brown. I meant to say that under the law and practice of that system men are shot down under the circumstances I have mentioned and the murderers tried under the circumstances mentioned, and acquitted. Not long since there was an instance in the State represented by the senator from Tennessee of that very character. Davis, I believe, was the man who did the shooting. He was a rather noted revenue agent. That is the practice under that system. It occurred in Tennessee, it occurred in Georgia, it occurred in Alabama, it occurred in North Carolina and South Carolina, and I do not know but also in Kentucky. I do not know whether citizens have been shot down by the revenue officers there or not.

But a word more in reference to the Tennessee case. Davis, the revenue collector, was a favorite with the authorities and a noted raider upon the people. And I here make a short extract from the very able speech of Colonel A. S. Colyar, who was counsel for the State in the prosecution of Davis for killing Haynes. Davis was on a raid in Grundy county. He approached a distillery and Haynes was at the distillery, but in no way connected with the business of distilling. Seeing the revenue officers and not knowing but he might be arrested, he started to run. They hailed him, but he did not stop and Davis shot him down. Davis was indicted in Grundy county for murder, and the case took the usual course. An order was sent down from the United States court to the State court to transfer the case to the former court. The transfer was made and the usual result, I believe, followed. Davis was not punished. But to the extract. Colonel Colyar says:

"Here is an extract from a report made of the result of one raid in which the defendant took part, as follows:

"They seized sixteen distilleries, five of which were in Tennessee, nine in Kentucky, and two in Virginia. They also captured 15,200 gallons of mash and beer, 165½ gallons of singlings, 87 of whiskey, 45 bushels of meal, 16 bushels of malt, 10 copper stills and caps, 11 worms, and 26½ mash-tubs. Value of property destroyed, \$3,300."

"A few days before the above was published, the same paper had reported the horses, cattle, and hogs brought into the city on a steamboat as the result of a single raid by Davis and his squad, this property being seized as property belonging to illicit distillers."

This, then, is the manner in which the business of collecting internal revenue is carried on in the State of Tennessee. And it is carried on in like manner, as already stated, in a number of other States. The property of the citizen is seized or destroyed at the caprice of the Government agent. He sits in the case as judge, jury, and executioner. He determines whether the

party is guilty of illegal distillation. He destroys the still and seizes the property of the party; and if the distiller or any one present attempts to get away he shoots him down; and when indicted in the State court he claims a transfer to the United States court, where he goes through the form of a mock trial, defended by the United States district attorney, and is acquitted. And this is the system that is to be settled upon us and under which our people are to suffer oppression until they have arisen in their might and required of their representatives its unconditional abrogation.

What would be said in Great Britain of any such conduct as this? Reference is made by Colonel Colyar, in the able argument to which I have referred, to the celebrated Knox cases in England. When it was the custom of the chief of cabinet to issue warrants for the seizure of property, without describing the property, and in some instances for the seizure of persons, without the names or description of such persons, suits were brought by those thus illegally arrested and by those whose property was thus illegally seized; and after a long litigation, in which the Government defending the suits expended nearly £100,000, the Court of King's Bench held that the warrants were illegal, that the defendant in every such case was entitled to recover damage of the agent of the Government. The English law and constitution protect the person and property of the subjects of that Government from illegal seizure.

Lord Chatham is reported to have said: "The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter, but the King of England may not enter. All his forces dare not cross the threshold of the ruined tenement."

This is the regard which the laws of England pay to the rights of person and property. The Constitution of the United States says that no citizen shall be deprived of "life, liberty, or *property*" without due process of law; and yet in the teeth of the English common law and of the Constitution of the United States an internal revenue system is maintained which practically sets aside all these safeguards and leaves life, liberty and property subject to the whims and assaults of irresponsible revenue agents.

Now, a word on the Bessemer-steel question as it has been put to us so often. I have never seen the day when I would not have voted to reduce the tariff on steel rails. The Southern Railway and Steamship Association a few years ago, at my instance, passed resolutions memorializing Congress for a reduction of that tariff, because we thought it was unreasonable and unjust. I say now it is, and I am ready to vote with the senator from Kentucky to reduce it, and I have never seen the day when I would not have done it; therefore I am not to be misrepresented on that question.

But let us look now a moment at the working of it. While I utterly repudiate the doctrine of a high tariff making low goods, as that clap-trap phrase is usually pronounced in the country, still it is a fact which we cannot get away from that where an article is protected unjustly, it may be as it was in this case even to the point of prohibition, it builds up the industries of this country until they reach the point where competition between themselves puts down the price immensely below what it was when those interests were first protected by a high tariff.

Take this very article of Bessemer steel. I have some knowledge of the working of that business. It was my duty some years since to make a purchase of that article for a railroad interest which I represent. For the first I ever purchased I paid \$130 per ton in cash. A few days since my agent purchased in Pennsylvania 2,000 tons of as good steel as that was for \$38.50 per ton. The first was \$130 per ton; the last purchased was \$38.50 per ton.

The tariff was the same in both cases. It was \$28 per ton when I purchased the first, and it is \$28 per ton now.

What reduced it? Why is it not \$130 a ton now; or if not that much, why is it lower than it was? How did it get down to \$38.50? It was in this way: A tariff was put on that was almost prohibitory; the article was in demand; large amounts of capital were invested; able capitalists here purchased the patent-right for this country, and then put millions of money into mills to manufacture it; and they have built up a competition among themselves; and that has reduced it from \$130 to \$38.50, while there has been no change in the rate of the tariff.

Therefore there is a great deal of fallacy in all these statements about the exorbitant tariff on Bessemer steel ruining this country. The railroads had to pay (and the people have to pay for it, of course, in the end) unreasonable rates for the article at the start. Why was it that we had to pay at that day \$130 a ton? If we had not put up mills to make it in this country, it is doubtful whether we should not be paying \$130 a ton or some other very high rate to day for it, for the foreign manufacturer having the monopoly would have put his own price upon it, and therefore we should probably have to pay double or three times to-day what we do pay to our own mills. By this system those mills are now located here; the capital is in them; the plant is there; and they cannot be removed; and we have this competition for all time to come. I am willing to vote to reduce the tariff on steel to a reasonable rate, as I have always been, and give the benefit of it to the people.

Take another illustration—

Mr. Beck. The senator is aware, I suppose, that he can buy Bessemer-steel rails for \$24 or \$25 a ton, free on board, in Liverpool.

Mr. Brown. But I suppose Bessemer steel, as well as everything else, ought to pay some of the \$250,000,000 we need to carry on the Government. I think it ought not to pay as high a rate as it now pays. But if we adopt the system of collecting all the revenue by internal taxation, then the senator from Kentucky is right, and we can get it at \$25 in Liverpool. And then we will have to pay a direct tax about seven times as much as our present State tax on our lands, our horses, mules, cattle, hogs, and sheep. The people prefer that the railroads pay it on Bessemer steel rather than have direct tax.

The very fact that we have had this competition here has compelled them to come down with the price abroad, and if we had not the competition here we could not get it at any such price. If we had built no Bessemer mills in this country we should have had no steel delivered here at \$24 a ton. The difference is now between \$24, if the senator's figures are right, and I suppose they are, and \$38.50. Well, I would take off part of the duty on that article, and I would still make the railroads that use Bessemer steel pay part of the tariff, pay part of the \$250,000,000 that somebody has to pay.

But when the senator asked me the last question or made the last statement, I was going to refer to another article in which my own State is interested. Prior to the war, Georgia and the Carolinas had almost a monopoly of the rice market. Rice at that day did not sell for more than \$2 per hundred pounds. There was 20 per cent. ad valorem duty upon it. We had slave labor, and we made it almost as cheaply as the Chinaman and the people in the East do, and we had a monopoly of the market. Not a pound came in at 20 per cent. Foreign rice at that time could not compete.

But war clouds overshadowed the country, and the contending armies met, and the blockade closed our ports, and Southern rice was not permitted to go to Northern markets. What did rice go up to in the United States?

While there was plenty of it in the East, in China and other countries, with the ports thrown open to it at \$2 a hundred, it could not come because the rice raised by slave labor was lower than that. But as soon as the Southern rice was cut off, and no longer went into the market of the United States, that part of it occupied by the Union government and armies, it rose to from \$12 to \$14 per hundred. Why did not the foreigners bring it in and kindly sell it to us at \$4 a hundred? Because war had crushed the production in this country, and they at once took advantage of our necessity to run the price up three or four times as high as it had been before.

Since the war, nothing could have been done re-establishing the old rice plantations had it not been for the tariff, because now under the present system of culture the foreign rice-maker gets labor at a cost of less than half what we can get it for. Drop protection and that industry drops, and one hundred and fifty to one hundred sixty thousand people supported by the rice culture are thrown out of employment, and valuable plantations are thrown back into the forest. What has been the result? It was said that the tariff on rice was too high. The result has not been at the present price to prevent it from coming in. But nearly half of all the rice the people of the United States now use is imported, and it came down in 1880 and 1881 to \$1 25 a hundred.

When you put a tariff on home rice and protected it so that the business could go forward, the foreigner dropped the price of his rice from \$14 a hundred, which he could no longer get, and he now makes it and brings it here and sells it to us at \$4.50 in competition with the home rice.

Therefore it is idle to say, if we want to talk like candid men on these questions, that a tariff protecting largely any industry does not cause capital to be invested in that industry and build it up so that it can after a while do with less protection. That is the working of it in every instance almost where you trace the course of it all along through our tariff history. Bessemer steel is one instance, and rice is another notable instance.

When our home factories did not make the Bessemer steel to anything like the supply, the foreign manufacturers brought it here and sold it at a price laid down in the interior of Georgia at \$180 a ton. We protected unreasonably, as it seemed at the time, the home manufacturer of this article, and the result has been that now the price is down by competition among ourselves to \$38.50 a ton.

Mr. President, I hold in my hand the statistics of the imported merchandise for the year ending June 30, 1882, and I see that the whole amount of goods imported for consumption was \$716,000,000 worth. Of that amount \$210,000,000 came in on the free list,—I give only the round numbers; \$505,000,000 on the dutiable list paid taxes; \$505,000,000 is the whole amount of dutiable goods imported at the ports of the United States for the fiscal year ending June 30, 1882. With a duty of 40 per cent. ad valorem that would produce only \$202,000,000 revenue. That will not do. You are obliged therefore — and there is no escape from the statistics — if next year is as this year, to put an average tax of more than 40 per cent. ad valorem on every dollar's worth of goods imported on the dutiable list to raise \$202,000,000. You must have at least \$250,000,000 from customs, and your internal revenue in the bargain.

You must raise, say, \$250,000,000 by customs, and then you must have on all dutiable goods imported during the year, if there be the same quantity this year, a tax of about 50 per cent. ad valorem. That is terrible upon trace-chains and looking-glasses and shovels and picks and hoes and clothes and hats and shoes and boots and other articles. The people could absolutely get them for 50 per cent. less than they do if there was no tax. If we

did not have to support this Government we should be relieved of an immense amount of taxation. One senator spoke of the very high taxation; that it is 50 per cent. or 40 per cent., and no doubt preferred 20 per cent. ad valorem. Some people forget that we have to support the Government, and put about 50 per cent. upon every dollar's worth that is imported, that is dutiable, to raise the amount necessary, which we are obliged to have.

How are you going to raise it? Lower all these duties to 20 per cent. and see whether you can do it. I know that the advocates of extreme free trade will not raise all the revenue by internal taxation, but they say if you lower the duties the effect will be to increase the quantity imported. Well, I suppose we shall not import much more or much less than we need. I presume that all the goods needed this year came in; all we were in a condition to pay for came in.

It is true that by lowering the tariff to a point where you cannot get the necessary revenue out of it, you can destroy home industry. If you reduce the tariff enough to greatly stimulate the importation so as to destroy our home industries, I do not know that you will get enough from it to make \$250,000,000 a year, or to make, as I think it ought to be, with the internal-revenue system abolished, the entire amount of \$400,000,000 that is needed to support this Government.

I sympathize very cordially with the senators on this floor or gentlemen anywhere else who desire to see to it that full, equal, and exact justice is done to the people and that no unnecessary burdens are saddled upon them. But if I were to tell the country that all the taxes upon the goods bought by the poor man and the rich man and everybody who consumes are an unnecessary burden, I should feel as if I was demagoging a little, for I should be keeping back from them another important statement that must in honesty and fair play accompany that, that if you did not pay it in that way you would have to pay it upon your property, and it would be as long as it is broad usually and as broad as it is long in the end. There would be a difference in the class who pay it, and that difference under the system of collecting it internally would be against the farmer, in favor of the gambler, in favor of the rich who pay most of the tariff. The present system saddles more of it on the rich man and the gambler.

Take an illustration. I know a farmer in Georgia who is worth \$20,000 clear of indebtedness. He is a man of sense; he economizes closely; he has good land and a good deal of it; he has horses and mules and cows and sheep and hogs and all property which a man in that condition usually draws around him. He and his family dress very plainly; he makes almost everything upon the plantation that he needs; buys a little iron, a little salt, a little sugar and coffee—what we call strictly the necessities of life; and he pays a very small proportion of the taxes to support this Government compared with the amount of property he owns. I know a gambler in Atlanta who is not worth \$500 of any visible property but is one of the finest dressed men in town every time you see him. He wears gold rings upon his fingers and diamonds upon his breast, fine boots, hats—and everything he wears is fine. That man under the tariff pays a great deal more of the taxes that now support this Government than the old farmer I have spoken of who is worth \$20,000 in property. If you change it and collect it by the internal-revenue system or direct taxation you lift the burden off the shoulder of the gambler and put it upon the shoulder of the old planter. That will be the working of it. There is no getting away from facts, and those are the facts in just such instances as I mention.

I would vote here, as a rule, to exempt from the tariff almost everything raised abroad that we do not produce or manufacture in this country. Take

as an illustration tea and coffee. Neither is raised in this country, and we compete with nobody on these articles, and a tariff upon them protects nobody. I would keep them perpetually on the free-list. I would tax sugar, although it is used as generally as tea and coffee, because it is produced in this country, and I would give the laborers who produce sugar a part of the benefit of the protection that the \$250,000,000 or \$300,000,000 which we have to raise is obliged to give somebody.

The great problem to my mind is how to properly adjust this burden and how properly to divide this protection. I would make some exceptions to the rule I have just laid down. There are certain articles of luxury, used by the rich alone, made abroad that we do not compete with that I would make pay a high tariff and bear that much of the burdens of the Government; but unless there was something of that character while you relieve the common people and the poor people entirely, I would in every instance put the tariff on that which would protect some American industry or American resource. In other words, I would give the preference to the labor of my own country rather than the labor of a foreign country. I would relieve as far as possible all the laboring masses of this country by placing the tariff on the goods they produce by their labor in preference to that which is not produced by American labor. And in taking that position I do not depart from the traditions of the fathers; I stand squarely on the old Democratic platform prior to the war, and I will not be driven from it no matter how many new lights there may be who have concluded that they may do better than that by protecting foreign labor against home labor.

The position of the Democratic party then was a tariff for revenue with incidental protection to American labor, raising no more money than was absolutely necessary to an economical administration of this Government. There is precisely where I stood then. The first vote I ever cast for a Presidential candidate was for Mr. Polk on that very platform. There I have stood ever since, and there I intend to stand with my feet firmly fixed upon that platform. We triumphed on that platform before the war, and I tell my Democratic friends here that when we again triumph it will have to be upon that platform. It is the old Democratic platform, and I invite my Democratic friends who have wandered from it to return to it again. You cannot succeed in a Presidential campaign if the people of this country are satisfied that you are antagonistic in your feelings and your action to American production and American labor, and that you are willing to put foreign productions and foreign labor in a condition of preference to home productions and home labor. There are too many laborers interested in this question for any party to succeed upon such a platform.

I have noticed the capital made by our Republican friends on the other side of this Chamber out of this question; and while they go as I think to the extreme, and I do not agree with them, especially with that portion of them who say that they are for protection for protection's sake, yet I saw enough in the last Presidential campaign, when we went before the people of these United States upon the platform of a tariff for revenue only, saying nothing about incidental protection, throwing aside the whole doctrine of the fathers of the Democracy of former days—I say I saw enough of the effect then in Connecticut and New Jersey and Indiana and probably in other States to convince me that you will never carry them again on any such platform, and you will never succeed without them or part of them.

We may say what we will about it, we may appeal to the prejudices of the people as much as we will and say, You are paying 20, 30, 40, 50, 60, or 70 per cent. upon goods, and you would get them a great deal cheaper if we had no tariff, but you cannot mislead the people of this country on this

question. They understood it, the capital of the country understands it, the manufacturers understand it, the bankers and capitalists of every class understand it, the laborers understand it. They know there has to be a fund raised by taxation to support this Government, and they are intelligent enough to understand that it has to be done either by tariff on imports or by internal taxation, where it comes right home to everybody.

Under the tariff system it is an indirect tax, the larger portion of it paid by the wealthier class, and those who consume most of the fine goods. And being indirect, no one seems to feel it as they would a direct levy of the amount upon that property at home. Unless the appropriations can be greatly reduced, we are obliged to raise about \$400,000,000 this year; \$250,000,000 of that by tariff as heretofore, and the rest by the internal-revenue system unless we repeal it. If we repudiate this principle, and levy the whole by a direct tax, then we have to raise \$400,000,000 by internal taxation alone. As matters now stand Georgia's share of this would be about \$10,000,000 annually, which the tax-gatherers would collect from our people. Senators here have talked about taxes upon the plow, and the hoe, and the trace-chain, and other articles purchased by the farmer. If we adopt the internal-revenue system for raising the whole amount which each State will have to pay, each citizen will have to pay seven or eight times as much tax in gold each year to support the Federal Government as he now pays to support the State Government. Then a heavy tax would be assessed upon the land, the horses, the mules, the cows, the hogs, the sheep and the goats, and the plows and the hoes, and the spades and the trace-chains, and the picks and the shovels, and even the skillets of our people. The senator or representative who by his vote adopts this principle, if it should ever become a law, will meet among his constituents a storm of indignation such as he has never before witnessed.

Instead of raising this immense amount by direct taxation upon all the property of the people, let it be raised as our fathers raised it, by a tariff. And in laying the tariff let it be so adjusted as to raise the necessary revenue upon imports, and at the same time afford incidental protection to American industry. You cannot raise \$250,000,000 on imported articles consumed in the United States without giving \$250,000,000 of protection to somebody. I would so distribute the protection as to give part of it to manufactured articles of cotton and wool and silk, of iron and steel and the ores that support them, and part among other manufactures. And I would distribute part of it among the wool-growers, the hemp-growers, the flax-growers, the tobacco-growers, the fruit-growers, the sugar-growers, the rice-growers, the shepherds, and the herdsmen. In a word, I would so distribute it as to protect as far as possible against foreign productions and foreign labor all the productions and all the labor of all the producing and laboring classes of the United States. I would put upon the free-list generally, as already stated, such foreign productions as we do not raise and such foreign manufactures as we cannot compete with, and raise the amount of money we need upon such articles as we do raise and such manufactures as we make.

We have to raise the amount of money necessary to support the Government, and what we raise upon one class of articles we do not have to put upon another. Therefore I prefer the first plan, that is to raise the revenue by tariff. And I will go further and say that I entertain no doubt that nine-tenths of the voters of this country prefer that plan, and no party can succeed at a general election that does not support the first plan.

Mr. President, I want to discuss this question fairly. I shall resort to no anecdote, nothing to amuse you. If my premises are unsound or my argument is unsound, of course the senate will see it at once and it will be met

with a successful reply. If my position is impregnable there will be no reply. But I desire to discuss the question on principle. We have to meet it on principle at the bar of public opinion, and we had better take a proper position upon it.

Now, as to the details of this bill there are many of them that I do not like. Some I will vote for; some I will not vote for. I do not know yet whether I shall vote for the bill or whether I shall vote against it. I have no idea it will be anything like a perfect bill. We have seen enough to know that we have stricken down the tariff on certain articles very low. For instance, on the motion of my friend the senator from Texas [Mr. Coke], the other day, when he proposed to reduce glue, I believe it was, to 10 per cent. ad valorem. I voted for it because his State produces more horns and hoofs out of which it is made than any other State in the Union, and if he and his colleague were satisfied with that I would vote for it, though now glue is 40 per cent. below the average ad valorem that it takes to support this Government.

While glue is at 10 per cent. ad valorem other articles must pay 40, 50, 80, or 100 per cent. It is an exceedingly delicate affair to take up this bill, or any other bill, and so adjust all the details as to give just such a tariff as ought to be given in the case of each particular article. No committee can do it, and I presume no legislative assembly can do it. Something will be wrong. There will be some inequality. Therefore, the very best we can do is an approximation to what is right. We may make some mistakes in these details in voting on particular articles. I may have voted for too high a tariff on certain articles and for too low on others in the opinion of other senators. Doubtless I have. All of it does not suit me; but I intend to do the best I can, voting on each question as it comes up after it has been discussed, to perfect the bill as nearly as possible.

When it is done we shall have much to find fault with; but it is one step in the right direction. The present tariff is unequal, unjust, and in some respects iniquitous; it wants modification and change; the revenues of the Government are such that they will bear reduction, and reduction ought to be made; and if it will not meet the expenses, then we must reduce the expenditures until it will meet them. But still the question comes back on the details, how low are you going to arrange it? If you put 50 per cent. ad valorem on everything, which is about the amount it would take on all the goods imported for consumption which were dutiable last year, you do not do justice.

Some of the New England spinners, who have had protection for forty or fifty years, do not need 50 per cent. now. They have been rocked in this cradle long enough. They are no longer little children. They have gone through the period of youth; they are approximating the period of vigorous manhood; they have machinery now, many of them, that is equal probably to the best anywhere; they have skilled labor that is almost as good as you can find in Europe, and probably much of it is as good; it costs a little higher, and that is the greatest difficulty. But some of them neither ask nor expect 50 per cent., nor are they entitled to it.

On the other hand, take a struggling interest in the South—any of those we are trying to build up; if you put 50 per cent. on that and 50 per cent. on New England, the one in its infancy and the other in its manhood, you do not do justice between them. We have reached the point now where the South sees some prospect. New England has had protection for half a century. She has risen to that point where she will soon be able to take care of herself. I would take off part of that tariff and I would put it on where it is more needed.

These are my views generally on this question. There are many details that I should like to go into that neither the time of the senate nor my strength will permit me to do. This is the general outline of my position on the tariff. Acting on the principles I have laid down, I shall vote in the case of each particular item here as I think most just under all the circumstances; so distribute the protection as to build up the weak that need fostering, and withdraw protection as much as may be from the strong that do not need it. Taking this view, I desire to say but little on the iron question. It is a question in which I have some interest myself, and therefore it is not proper that I should say much, but, as one of the senators from Georgia, it is my duty to speak for her.

Therefore, unpleasant or perhaps improper as it may be for me to discuss that question, as I am interested in it, I desire to say that Georgia and Alabama and Tennessee and South Carolina and North Carolina and Virginia are immensely interested in that question. Some of the greatest deposits of iron on the face of the earth are found in those States. All we need is development, and some of the fruits that protection has given in the case of Bessemer steel in reducing prices down two-thirds will be felt probably in a similar degree there. I do not mean that there will be two-thirds reduction upon present prices, however, because that would be clear below the point of production.

But what I do mean is that we can build up by a judicious system an immense interest there with immense power for the future and immense wealth to that section. What made England wealthy and powerful as she is to-day? Many causes, you may say, but what was probably the leading one? What probably did more to develop her power and her immense strength than any other thing? Her iron interest and her coal interest fully developed; immense amounts of capital have been put into it; the development has been carried to the highest point, and it has given her a power and a prestige that is beyond comparison; and while she was formerly one of the strongest protection powers in the world—she even required her dead to be buried in woollens, to protect the woollen interest—she has built up her great interests by protection till, like the Bessemer steel men, now she can go before the world, throw her ports open, and undersell everybody. The South cannot for a long time reach the position England has reached, but we have a great deal more coal, a great deal more iron, in the three States of Tennessee, Georgia, and Alabama than there is all told in the islands of Great Britain.

I recollect three or four years ago when Mr. Bell, president of the Iron and Steel Association of Great Britain, visited that section and inspected our iron and coal resources. While riding with him on the railroad train I said to him, "Mr. Bell, I have never had the pleasure to visit your country; I know the great power that you derive from the great coal and iron interests and deposits of Great Britain; how do yours compare in quantity with what you have seen in Georgia, Alabama, and Tennessee?" His reply, in a quick nervous manner, was, "Ours is a speck, sir, a mere speck compared with yours." We have six times, probably ten times as much mineral wealth in the section that I now refer to as Great Britain had before a pick was ever used on her deposit.

I do not think it is wise to adopt a policy in our tariff laws or any other legislation that crushes out that interest and invites the products of this immense English capital and English labor to come in here and occupy this field with their productions and take charge of it. If you will put a rate of tariff on iron low enough to stop the furnaces of the United States, how long do you suppose it will be before iron brought from England to this country, like rice brought from Asia here in 1862, will go up one, two, or three fold? It is the

fact that you produce it here in immense quantities and stimulate direct competition among yourselves and meet them with competition that keeps down the price to the consumer. Blot out the furnaces and rolling-mills of this country, and then look out for your trace-chains and all your other iron articles that have been mentioned, and you will soon feel the weight of English power upon your prosperity. You had better not do it, in my opinion.

Now, a word in reference to the pending question, and I have done. This is a proposition to put a tariff on iron ore, as I understand it. The present rate on iron ore is 20 per cent. ad valorem, which amounts to 56 cents and a fraction per ton. This bill proposes to lower that rate, as it is reported by the committee, 6 and a fraction cents per ton. I think it would be unwise to do it. As I see by a statement made by the chairman of the national executive committee of the iron-ore producers, there are in three or four mines on Lake Superior 16,000 persons engaged in this business, supporting about 50,000 people. I speak of that particular locality; I have not the statistics at hand about any other. They have invested in the Marquette district, as the statistics here state, \$33,000,000, and in the Menomonee district \$18,000,000; making \$51,000,000 invested there in mining alone. Then they have built, as is stated, three railroads there simply for the purpose of hauling this ore to the iron furnaces at different places, mostly toward Pennsylvania and in the West. Those railroads, that are used for scarcely anything else except the transportation of iron ore, have cost, one \$19,000,000 in round numbers, making a total investment for working the ore in those two districts alone \$51,000,000. There are other portions of the country where there are very large operations of this character going on. I suppose I might say on a sort of guess, for I have not the data before me, that there are \$200,000,000 now invested in the United States in the iron-ore business, and it maintains over 100,000 people. I do not want to strike down that interest. While it may be true that it is not in the interior, but on the lakes, I want to take in the whole country in a broad view of this subject. Therefore I vote for the amount that was fixed by the pig-iron convention at—

Mr. Sherman. I happen to know, as the senator is looking for the recommendation of the convention of all the iron manufacturers, that they agreed after a full conference, all the parties interested—

Mr. Brown. On 85 cents a ton.

Mr. Sherman. They agreed finally on 85 cents unanimously.

Mr. Brown. I was looking for the place where that convention was held.

Mr. Sherman. Eighty-five cents a ton for the ore.

Mr. Brown. There were but two concerns in the United States that objected to that, as it is stated here, and one of them—

Mr. Sherman. It was the Bessemer Steel Works that objected to it, and some other company. They will be found in the testimony taken before the tariff commission, if it is desired.

Mr. Brown. It was two of the Pennsylvania steel works, as I remember—I do not recollect the names and I cannot turn to them at this minute—but of all the pig-iron manufacturers of the United States in convention, after fully discussing this question, there were none who objected to 85 cents; there were but the two concerns of any character, and those were two large steel mills, that objected to it. It seems to me that the manufacturers of pig-iron ought to be pretty fair judges, when they meet in convention and when they have to buy the ore, of what the laborer ought to have for the ore delivered at the furnaces. And as they have all settled upon 85 cents per ton tariff and no manufacturer of pig-iron objects to it, I am willing to vote to give to these laborers the 85 cents per ton, which is a rise on the present rate of from 56 and a fraction to 85 cents. It seems to me that it is reasonable and little

enough, and therefore I shall vote, when we reach that proposition, for the amount of tariff that was agreed upon by that convention as proper for the protection of those engaged in furnishing iron ore.

ARGUMENT OF EX-GOV. JOSEPH E. BROWN, IN 1866, ON THE UNCONSTITUTIONALITY OF THE TEST OATH AS APPLIED TO ATTORNEYS-AT-LAW IN THE UNITED STATES DISTRICT COURT AT SAVANNAH, ON THE MOTION OF HON. WILLIAM LAW, WHO APPLIED TO BE PERMITTED TO RESUME HIS PRACTICE IN THE COURT WITHOUT TAKING THE OATH. HON. JOHN ERSKINE PRESIDING IN SAID COURT.

This argument was one of the first made in the South upon the unconstitutionality of the test oath. As will be seen by its perusal, it takes almost the identical positions assumed by the Supreme Court of the United States at a later period when they adjudged the test oath unconstitutional. In the case of Judge Law, Judge Erskine in an able opinion held the act to be unconstitutional, and admitted Judge Law and the other attorneys to practice in his court. The decision afterwards made by the Supreme Court was almost identical with that made by Judge Erskine at that early period.

In the United States District Court, Judge Erskine, according to appointment, heard the arguments of Judge Law and Ex-Gov. Joseph E. Brown upon the unconstitutionality of the Test Oath as applicable to lawyers, the question having arisen from the motion of the Hon. William Law, to be permitted to continue his practice in the court in which he had practiced for forty-nine years, without taking the oath.

Gov. Brown said :

May it please Your Honor :

I am well aware of the great importance of the question now under consideration. He who denies the validity of a solemn act of Congress on account of its unconstitutionality, should do so with deference and respect for the department of the government by which it is enacted, as well as for the judicial tribunal which is asked to declare it null and void. I trust I approach this question in a proper spirit, and with proper motives. In what I have to say I state in advance that it is not my intention to reflect in the slightest degree upon the conduct or to question the motives of any officer of the government. After the scenes of anarchy and confusion through which we have passed, I feel much gratified to see military rule once more give place to civil, and to see the courts once more thrown open for the redress of grievances and the general administration of justice. I trust they may never again be compelled to give place to military tribunals or military rule. Of the peace and quiet which is being restored to the country, I would say as the great English commentator says of his government, *Esto perpetua* ! In the discussion of this question I am satisfied that reason and authority are more in demand than declamation or even eloquence. If I possessed the latter, which I do not claim, this is not the proper occasion for its display. As I have copied most of the authorities which I cite literally, and as they are numerous and I have not access at present to some of the books from which they are taken, I shall read them, with the exception of some three or four, from the manuscript copy which I have before me.

It is solemnly declared in the great charter of English liberty that : " No freeman shall be taken, imprisoned, or disseized of his freehold or liberties, or free customs, or be outlawed or exiled, or otherwise destroyed or condemned, but by lawful judgment of his peers, or by the law of the land."

Judge Blackstone says of this provision in the great charter, that it protected every individual of the nation in the free enjoyment of his life, his liberty, and his *property*, unless declared to be *forfeited* by the judgment of his

peers, or the law of the land. [Com. vol. 4, page 424.] Again, in vol. 1, page 130, he says: "And by a variety of ancient statutes it is enacted that no man's lands or goods shall be seized into the king's hands against the great charter and the law of the land; and that no man shall be disinherited, nor put out of franchises or freehold, unless he be *duly brought to answer*, and be *forejudged by course of law*; and if anything be done to the contrary it shall be redressed and holden for none."

Mr. Vattel, in his standard work upon the law of nations, page 33, while treating of the principal objects of *good governm-nt*, says: "The society is established with a view of procuring to those who are its members, the necessities, conveniences, and even pleasures of life, and in general everything necessary to their happiness—of enabling each individual peaceably to enjoy his own *property*, and to obtain justice with safety and certainty."

Again, he says: "The State ought to encourage labor, to animate industry, to excite abilities, to propose honors, rewards, privileges, and so to order matters that every one may live by his industry."

It is laid down in the Declaration of American Independence, as a self-evident truth, that all men are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

By the above quotations and others that might be added, which are doubtless familiar to your Honor, it will be seen that the celebrated charter of English liberty, the language of the great European author, and the American Declaration of Independence, all concur in laying down as fundamental principles, which underlie the structure of good government in every free state, which no legislative body has a right to ignore, disregard or violate; that it is the duty of the government not only to encourage labor and stimulate industry, but to so order matters that every man may live by his industry. The pursuit of happiness in every innocent manner agreeable to his inclinations; the exercise of honest industry in any trade or profession which he may select for the purpose of procuring a livelihood; the acquisition of *property* by his labor, and the protection by government of his life, liberty, person and *property* against every illegal or unjust violation or invasion, are inherent inalienable rights of the citizen or subject, which no government can disregard or violate without incurring the just censure of enlightened reason for the exercise of tyranny and oppression. But if the legislative department of the government, no matter by what motive it may be actuated, should so far transcend the proper boundaries which have been prescribed to its authority, as to invade these sacred rights, protected as they are by a law higher than its enactments, it is the pride of our system, that an independent judiciary, whose duty it is to hold the scales of justice in equipoise, as well between the citizen and the government as between citizen and citizen, will vindicate the majesty of *the* law, and maintain the good faith and justice of the government, by declaring all such enactments as violate the fundamental law, inoperative, null and void.

Let us apply these great principles to the case now before your Honor. An attorney of this court, whose name has appeared upon the rolls as an officer of court for nearly fifty years, whose private and professional character are of the most elevated rank; who has filled with distinction the position of a judge; who was a Union man as long as there was a possibility of preventing the rupture; who never bore arms against the Government of the United States, or held office under the Confederate States; who has violated no rule of the common law; committed no contempt of court; collected no money which he has refused to pay over; acted in bad faith to no client; nor has

he been charged, indicted, or convicted under any penal law of this State, or of the United States; and who has received a full pardon from the President of the United States for any and every act which might, even by implication, be construed as a violation of the law, because he cannot take a test oath that he *never* "aided, counselled, countenanced, or encouraged" any one who bore arms against the United States, is to be driven from the bar unless your Honor can protect his rights by the decision which you may feel it your duty to pronounce in this case.

While he refuses to take the test oath, who says he has been guilty of rebellion, or treason, or other crime or misdemeanor, prohibited by any law of the United States? What officer of the government stands here as his accuser, and upon what charge and specifications? What provision of the penal code has he violated, and when and where did he do it, and who are the witnesses against him? What grand jury has indicted him, and upon what charge? What petit jury has found him guilty? What judge has pronounced sentence upon him, and when was it done, and where is the record?

One of the fundamental maxims of the common law which has been approved by the ablest jurists and sanctioned by the wisdom of ages is, that every man shall be presumed to be innocent till the contrary is proven. The attorney is entitled to the benefit of this salutary rule. He stands before you to-day as did the woman, over eighteen hundred years ago, before the Judge of all the earth, with no accuser, and I trust the judgment of your Honor will be: neither do I accuse thee. He stands with the presumption of innocence in his favor, and as no proof is offered to the contrary that presumption becomes conclusive. How then is this court to punish him by the forfeiture of his property in his profession, and by taking from him his means of livelihood, for the commission of an offence of which the presumption of innocence, by a rule of law which you cannot disregard, is conclusive in his favor? Such a proceeding would not only violate the great principles of *Magna Charta*, but would be subversive of the very foundations upon which our system of government rests. In place of the salutary rule above mentioned, which has been consecrated by the wisdom of ages, it would establish the contrary one that every man is presumed to be guilty of a criminal violation of the law till he proves his own innocence. If he has been guilty of no crime, all must agree that he should suffer no penalty or forfeiture. The very fact that it is proposed to forfeit his right to practice his profession for his support—presupposes, contrary to the truth, that his guilt has been established before a court of competent jurisdiction. Otherwise the forfeiture is an unwarrantable and defenceless violation of the great principles of organic law, laid down by the high authorities which I have quoted, and recognized by every enlightened jurist who has lived under free institutions, in every age.

But it may be said that large numbers of persons, and among them many lawyers, have been guilty of treason, or of encouraging rebellion against the Government of the United States; and that Congress has adopted this mode of compelling each to discover under oath whether he is one of the number; and if he refuses to make the discovery, that he shall be presumed to be guilty, and the confiscation of his property in his profession shall be the penalty. Truly, this is what Congress has attempted to do, but upon what principle and by what right? If he has been guilty of a crime it is the right of the government to have him prosecuted, convicted and punished by the judgment of his peers or the law of the land; but without such conviction the infliction of corporal punishment upon him, or the confiscation of his estate, or any part thereof, is unauthorized tyranny; nor has the government any right to compel him to appear and give testimony against himself, to aid it in procuring

such conviction. *Nemo tenebatur prodere se ipsum* is the well established rule of the common law, and is thus expounded by a very able and accurate American author: "That when the answer will have a *tendency* to expose the witness to a penal liability, or to any kind of punishment, or to a criminal charge, or to a *forfeiture* of his *estate*, the witness is not bound to answer. And if the fact to which he is interrogated forms but *one link* in the chain of testimony which is to convict him, he is protected. And if the witness declines answering, *no inference* of the truth of the fact is permitted to be drawn from that circumstance." [1 Greenl. Ev., sec. 461-463.]

The Constitution of the United States, as originally formed, contained no provision guarantying to the citizen protection against the violation by Congress of this great first principle. But this protection is carefully provided in the fifth article of the amendments, proposed at the first session of the first Congress which was adopted in these words :

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; *nor shall he be compelled in any criminal case to be a witness against himself*, nor be deprived of life, liberty, or *property* without due process of law; nor shall private property be taken for public use without just compensation."

This is the fundamental law of this land, and any act of Congress in violation of it is inoperative, null and void, and it is the solemn duty of the courts so to declare it. And I beg your Honor to bear in mind that this article of the Constitution not only denies to Congress the power to compel any one to be a witness to criminate himself, but it declares plainly and positively, that *no one shall be deprived of life, liberty, or property without due process of law*, giving *property* precisely the same protection which it gives to life or liberty.

Has an attorney-at-law a property in his profession? If so the Constitution of the United States, as well as *Magna Charta*, declares that he shall not be deprived of it without due process of law.

An attorney-at-law is an *officer* belonging to the courts of justice. [1 Bacon's Abr., 474.] An *officer* is one who is lawfully invested with an *office*. [7 Bacon's Abr., 279.] *Offices* which are a right to exercise a public or private employment, and to take the fees and emoluments thereto belonging, are also incorporeal hereditaments, whether public, as those of magistrates, or private, as of bailiffs, receivers, and the like. For a man may have an *estate* in them, either to himself and his heirs, or for life, or for a term of years, or for during pleasure only. [Blackstone's Com., 36.]

By these quotations it appears that a man may have an *estate* in an office. What is the meaning of the word *estate*? In its most extensive sense it is applied to signify everything in which riches or fortune may consist, and includes personal and real *property*. [Bouvier's Law Dict., 516.] According to Judge Blackstone, hereditaments are a species of *estate*, and he declares an office to be an incorporeal hereditament.

An attorney-at-law is then, according to the authorities, an *officer* of the courts, legally invested with an *office*. That *office* is an estate, which may be for life, or for a term of years, or during pleasure. That *estate* is *property*. And the Constitution of the United States says no one shall be deprived of *property* without due process of law.

It matters not whether it is attempted to be done by means of a test oath, compelling a party to criminate himself, or in what imaginable form, other than by due process of law, it is alike void, whatever may be the means

resorted to for its accomplishment. What power then has Congress to deprive an attorney of his *property* in his profession, simply because he refuses to swear whether he has or has not violated the criminal law of the land, when he has neither been charged with, indicted or convicted of, any such violation? I deny that it has any such right. This attempt is in violation of the fundamental law as expounded by the highest authorities, and is absurd within itself; and I know of no rule governing courts which could justify your Honor in the enforcement of any such enactment. The statute is a nullity and must, in my opinion, be so held whenever and wherever it is brought in question before any intelligent court.

I further invite your Honor's attention to the fact that the office of attorney and counsellor is recognized as well by the Constitution and laws of the United States as by the common law.

In the 6th article of the amendments to the Constitution it is declared that in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial by an impartial jury of the State or district wherein the crime shall have been committed; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

The judicial act of 1789 provides that in *all* the courts of the United States the parties may plead and manage their own causes personally; or by the assistance of such counsel or attorney-at-law, as by the rules of said courts respectively, shall be permitted to manage or conduct causes therein.

The Court will observe that the Congress of 1789 did not attempt to prescribe the qualifications of the attorney, or to say who shall or shall not practice in the courts, or for what cause an attorney shall be stricken from the rolls. This is left, as it should be, to the courts or principal officer, to which the office of attorney is incident, to be determined by rule of courts.

The office of attorney-at-law is clearly incident to that of a court, or of the judge or judges of the court: and the incident officer is only amenable to the principal officer, and may be removed by him—Congress has no such powers. In 7 Bacon's Abr., 284, and the cases there cited, the law upon this subject is laid down in the following words:

"Wherever an office is incident to another, such incident office is regularly grantable by him who hath the principal office. On this foundation it hath been held that the King's grant of the office of county clerk was void; it being inseparably incident to the office of sheriff, and could not by any *law* or *contrivance* be taken away from him."

If the King's grant of such incident office was void, and so held by his own courts, and it could not be taken away from the principal office by any *law* or *contrivance*, it follows that the King and Parliament together could not rightfully do it. Where then does the Congress of the United States, restrained by a written Constitution, get power to do that which the King and Parliament together in Great Britain, without such restraint, have no power to do? The office of county clerk in England, which from time immemorial has been an incident of the office of sheriff, is certainly no more inseparably connected with the sheriff's office than is the office of attorney in this country with that of the courts; and yet the transcendent power of the King and Parliament cannot, without utter disregard of all principle and precedent, deprive the principal office of the control of the incident.

I do not deny that Congress may lay down general rules regulating the proceedings of the courts and the conduct of attorneys. But I do deny that it can, without usurpation, destroy the constituted courts or deprive them of their legitimate control over the attorney; or that it can deprive the attor-

ney of his office when he has not been convicted of violating either the law of the land or the rules of the court.

But I may be asked if there exists no power in the government to deprive an attorney of his right to practice. I reply unhesitatingly that there does not, unless he has forfeited it by his own misconduct, in the violation of the law of the land or the rules of the court, of which he must have been convicted by due course of law, when the court of which he is an officer, and to which alone he is amenable, may strike his name from the rolls. As he is admitted by the court as an officer of court, without limitation as to time, or during good behavior, he may hold the office for life unless he forfeits it by misbehavior, of which he can never be convicted without trial. In Bacon's Abr., vol. 7, page 308, the law on this subject is laid down in the following clear and strong language:

"If an office be granted to a man to have and enjoy so long as he shall behave himself well in it, the grantee hath an estate of freehold in the office; for since nothing but his misbehaviors can determine his interest, no man can fix a shorter term than his life; since it must be his own act (which the law does not presume to foresee,) which only can make his estate of shorter continuance than his life."

This is the tenure by which the lawyer holds his office. And it is precisely the same by which the English judges and judges of the Courts of the United States hold their offices. Who ever heard of a judge of the United States Courts having been dismissed from office without previous trial and conviction of misbehavior?

I will now proceed to show (while the mode of trial is not the same,) that this is the rule applied by courts to attorneys: "An attorney may be struck from the rolls for any ill practice, attended with fraud and corruption, and committed against the obvious rules of justice and common honesty." [1 Bacon's Abr., 586.]

This is the general rule of law upon the subject; but, as the following quotations will show, he will be heard when the charge has been preferred, and must be *convicted* before he will be deprived of his office.

"When an attorney has been fraudulently admitted, or *convicted* after admission of felony or other offence which renders him unfit to be continued as an attorney, he may be struck off the rolls."

"And if an attorney practices after he has been *convicted* of forgery, perjury, subornation of perjury, or common barratry, he is liable to be transported." [Same authority, page 508.]

"An attorney will be struck from the rolls when he has been *convicted* of subornation of perjury." [1 McCord's S. C. Reps., 379.]

"But the court will not proceed against such attorney before *conviction*." [2 Halsted, 162.]

"An attorney *convicted* of felony and punished for it was struck off the rolls." [Ex-parte Brownall, Cowper's Reps., 829.]

"On a *mere allegation* that an attorney has been guilty of larceny his name will not be stricken off the rolls; his *conviction* must precede." [Bacon's Abr., 506.]

These are the rules which govern in cases when it is proposed to strike an attorney from the rolls for a violation of public law, which will only be done upon his *conviction* of such violation. As he is an officer of the court and amenable to the court, he may be struck for a wilful violation of a rule of court, when his act involves criminality, or for a wilful contempt of court, but never without a hearing nor until his guilt is established.

But I may be told that the Congress of the United States, in time of war, may seize and confiscate the property, whether in an office or any other kind,

of a citizen suspected of disloyalty or of having aided in rebellion, and deprive him of liberty or property till he has proved, or at least sworn to, his innocence. I deny it. Congress has no right to violate the Constitution either in peace or war.

The rule laid down in the Constitution in plain language is this: No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury. The exception to the rule is that persons in the land or naval forces, and persons in the militia when in *actual service in time of war or public danger* may be held to answer without such indictment or presentment of a grand jury. Nor can Congress deprive any person (not within the exception) of life, liberty or property, without due process of law. Congress may by law provide for the forfeiture of the estate of a person attainted of treason, but then only during his lifetime. There can be no forfeiture even for treason till there is a *conviction*, and the moment the person convicted is executed the forfeiture is at an end. And as there can be no corruption of blood, the estate, if inheritable, immediately descends to his legal heirs or devisees. In no other instance that occurs to me now does the Constitution give Congress the power to forfeit the estate or property of any one, for any offence whatever, except in the case of judges and other officers on *conviction* on impeachment, which works a forfeiture of their estates in their offices, but of no other property or estate, and never before conviction.

Congress has, therefore, no right to deprive any lawyer of his estate in his office, or of any other property (not needed for public use upon just compensation) until he has been convicted. Nor has Congress any right to make him a witness to prove his own guilt, or to draw any *inference* of his guilt from his refusal to answer. [7 Porter's Reports, 381.]

But suppose I were to admit that Congress does possess this power in time of war, and that the act was valid during the war, how does that deprive the lawyer of his office now? The war is at an end; and so proclaimed by our noble, patriotic President. The war is not only at an end, but the whole South has acquiesced in good faith in the results; and her sons, whose honor is as stainless as their gallantry upon the battle-field was conspicuous, have pledged that honor, under the solemnity of an oath, for their future loyalty. That pledge will never be violated. I think your Honor will not accuse me of vain-boasting when I say I know something of the feelings and sentiments of the people of Georgia, and I tell you to-day that, whatever may have been their opinions as to the original abstract question of the right of secession, they have abandoned it forever. Since the days of Jefferson and Hamilton it has been, so to speak, a litigated question, and there was but one court which had jurisdiction to pronounce an authoritative decision in the case—that was the high Court of Appeals, recognized by all nations as of universal jurisdiction, where grave litigated questions between states or communities, that no other court has power to adjudicate, are in the last resort decided by wager of battle. This case has been carried before that court. Both parties were ably represented. The case is decided; the judgment is against us. We have already paid an enormous bill of cost. But we acquiesce in the result, and swear before Heaven that we will abide by it in good faith.

Admit then, for the purpose of the argument, that the law was valid during the war, and where is its binding force now that the war is at an end? In that view of it, we have the very case laid down in the books where the reason of the law having ceased, the law itself ceases.

I have already shown, I trust, to the satisfaction of the court, that the office of a lawyer or his right to practice his profession is *property*, and as such that it is protected by the Constitution of the United States, and that he cannot

be deprived of it without due process of law. If Congress has power to deprive him of this property on his refusal to take a test oath, the tender of which it will not be pretended is due process of law, it has the same power to deprive him of his library, his dwelling-house, *choses en action*, and any and all other property he may possess, till he takes the oath, and if he can never take it, the confiscation of his whole property may become complete and perpetual, without indictment, trial by jury, or conviction of any offence whatever.

Again, if Congress has power to deprive a lawyer of his property in his office till he takes a test oath, it has the same power to prohibit any citizen from following any other profession or avocation till he has done the same. If it had power to enact this law, it has the same power to vary, alter, or amend it at pleasure. If it may constitutionally do what it has done; as the freedom of religion has no higher guaranty in the Constitution than the protection of property; it may pass a law that no one shall preach the Gospel till he has sworn that he believes baptism by immersion the only mode; or it may enact that no one shall practice medicine till he has taken an oath that he never did, and never will use opium in his practice; or that no one shall plow till he has filed his affidavit that he will never use a turning plow, as the Creator placed the soil on top of the ground where it should remain; or the party in power in Congress, no matter which it may be, may prescribe a test oath that no person shall ever vote again who does not make oath that he never voted for the other party; and may justify it upon the ground, at least satisfactory to itself, that its principles are the only true principles of the government, and that the public good imperatively requires that they be carried out in practice, which might not be done without the aid of the oath.

Let the judiciary sustain this assumption of power by Congress, and it may close the courts in the South indefinitely; shut the doors of the churches; stop every spindle of the manufacturer; quench the fires of every furnace in blast; lock the doors of the merchant, and drive the plowman from his honest labor—all by the simple appliance of a test oath.

And as nineteen-twentieths of the people of Georgia could not probably take it, Congress by a test oath declaring that no one shall hold property who cannot take it, may confiscate nineteen-twentieths of the property of Georgia, and indeed of the South, by the exercise of this power; for if it has power to forfeit the property a lawyer has in his profession by this means, it has as much power to confiscate any and all other property of all who refuse to take any test oath it may prescribe to any or all the people of the United States. Establish the principle that Congress can exclude all men from office or the practice of any profession or avocation who do not swear that they never bore arms against the government, and it follows that it may enact a law that no man shall hold office who fails to swear that he did bear arms in defence of the government. If the enactment of test oaths becomes the settled and approved policy of the government, the people of other sections of the Union will soon find that the Southern people are not the only sufferers.

I may be told that the British Parliament centuries ago enacted test oaths, and that no man was allowed to *hold office* until he had taken the sacraments of the Church of England and the oaths of abjuration, etc. This is true; and it is also true that the enlightenment of the age and the triumph of reason have long since swept these oaths from the statute book, and the Jew and the dissenter sit to-day by the side of the churchman in the Parliament of the realm.

But it does not follow from this historical fact that Congress now has or

ever did possess any such powers. The Parliament of Great Britain has established a particular church. Has the Congress of the United States any such power? Parliament has established an aristocracy, and provided for the grant, by the King, of titles of nobility. Can Congress do the same? Certainly not. Why not? Because there is a written constitution in this country which expressly forbids it. There was none in England. Such is the omnipotence of the Parliament of Great Britain that, with the consent of the King, it may change what they call the constitution at pleasure. The Congress of the United States with the President has no such power. The Parliament of Great Britain has power to confiscate the property of the subject beyond the period of his life, and either with or without the use of test oaths, if it should so will to deprive a subject of his *property* without due process of law. The written Constitution of the United States, which it has no power to change, denies to Congress the power to do either. From the difference in the powers possessed by Parliament and by Congress, the Court will readily perceive the reason why the British test oaths can, as precedents, be of no avail to the advocates of similar oaths in this country.

I wish also to invite the attention of your Honor to this view of this question. I have already shown that the Congress of the United States has, by statute, authorized parties in the courts to manage their causes by the assistance of such counsel or attorneys-at-law as by the *rules of said Courts respectively* shall be permitted to manage or conduct cases therein, and that the Constitution guaranties to the accused the assistance of counsel for his defence. Now, I deny that Congress has the power after a party has employed an attorney under this act and confided to him the management of his cause, to deprive him of his assistance when the attorney has been convicted of neither malpractice, crime nor misdemeanor.

I will now proceed to show that this enactment is obnoxious to another grave constitutional objection. The Constitution of the United States declares that no bill of attainder, or *ex post facto* law shall be passed.

By a bill of attainder I understand a judicial sentence by Parliament, or a legislative usurpation of judicial power. As when the Parliament passed a bill to attain A. B. of high treason, and directed his execution and the confiscation of his estate. This act of Congress is in the nature of a bill of attainder. It does not attain a lawyer of high treason, but it does assume judicial functions, and confiscates his property without judicial trial or judgment. And it usurps the power which properly belongs to the Courts alone, of determining who shall and who shall not fill the office, which is inseparably incident to the Court. This objection embraces the case of the applicant for admission to the bar as fully as that of the member of the bar. The Court prescribes a rule upon conformity to which any citizen has a right to be admitted to the bar. It belongs to the Court to fill this incident office, and Congress has no right to interfere, while he who complies with the rule of the Court has an unquestionable right to be admitted to practice. The student expends his money and time in preparation, and when ready to comply with the rule of court he applies for admission and is met by a *quasi* bill of attainder in the nature of a judicial sentence passed by Congress, that he shall not be admitted on complying with the rule of court, but that it is the judgment of Congress that he must also take a certain test oath not required by the Courts, before he can be admitted, and that on refusal to take it he stand convicted of aiding and abetting rebellion. If Congress may exclude all applicants for admission till they take the test oath, it may so shape the oath that no man ever can take it, and it may thus create a monopoly in the office of attorney in the hands of the few now at the bar who can take the oath, and at their death destroy the office altogether, notwithstanding the

constitutional guaranty, that every person accused of a *criminal* offence shall have the assistance of *counsel* for his defence.

This law is not only in the nature of a bill of attainder, which is forbidden by the Constitution, but it is clearly an *ex post facto* law as well, when applied to attorneys of the Court, or to applicants for admission to practice. An *ex post facto* law is thus defined by Mr. Justice Chase, delivering the opinion of the Supreme Court of the United States in the case of *Calder and wife vs. Bull and wife*, 3d Dallas, 386.

"1. Every law that makes an action, done before the passing of the laws and which was *innocent* when done, criminal, and punishes such action.

"2. Every law that *aggravates a crime* or makes it *greater* than it was when committed.

"3. Every law that *changes the punishment*, and inflicts a *greater punishment* than the law annexed to the crime when committed.

"4. Every law that alters the *legal rules of evidence* and receives *less* or different testimony than the law required at the time of the commission of the offence *in order to convict* the offenders." See also 1 Kent's Com., 408, Sergeant on Const. Law, 356; Smith's Com. on Const. Construction, 372.

In *Fletcher vs. Peck* 6, Cranch Reps., 138, Chief Justice Marshall, delivering the opinion of the Supreme Court of the United States, says: "An *ex post facto* law is one which renders an act punishable in a *manner* in which it was not punishable when it was committed. Such a law may inflict penalties on the person, or may inflict pecuniary penalties which swell the public treasury. The Legislature is prohibited from passing a law by which a man's *estate* or *any part* of it, shall be seized for a crime which was not declared by some previous law to render him liable to *that* punishment."

In the case of *Ross* (2 Pick., 169) it was held that if a statute add a *new* punishment or *increase* the old one, for an offence committed before its passage, such an act would be *ex post facto*. The party ought to know, says the court, at the time of committing the offence the whole extent of the punishment.

Now I beg the court to bear in mind that the act applying the test oath to attorneys-at-law was passed on the 24th of January, 1865—very near the end of the struggle. It fixes no period of time, as that he has not aided the rebellion since the date of the act, but it is general. The language is, "That I have *never* voluntarily borne arms," etc., embracing the whole period of his life. Now suppose the lawyer, or the applicant for admission, did bear arms against the government, or did aid or countenance those who did in 1861, is not this an *ex post facto* law as to him? Was the forfeiture of his property in his office, or of his right of being admitted to the office on complying with the rules prescribed by the court, any part of the penalty enacted by Congress against the offence, at or before the time of its commission? It certainly was not. It formed no part of the penalty till the 24th of January, 1865. This, then, is a law that repeals no part of the penalty prescribed by law against the offence in 1861; it only adds to the penalty already in existence the forfeiture of his right to practice law in the courts of the United States, or, in the language of Mr. Justice Chase, it inflicts a *greater punishment* than the law annexed to the crime when committed. In addition to the old penalty, it seizes and forfeits his *estate* in his office, which could not be done, because no previous law, in the language of Chief Justice Marshall, "rendered him liable to that punishment." And in the language of the Supreme Court of Massachusetts, in *Ross'* case, above cited, if it does not increase the old, it "adds a *new* punishment" for an offence committed before its passage. How could the attorney, at the time of committing the offence in 1861, know, in the language of the last named court, *the whole extent of the*

punishment which was not prescribed till January, 1865? It is also *ex post facto* when tested by the fourth rule laid down by Mr. Justice Chase. It changes the *legal* rule of *evidence* and receives *less* and different testimony than the law required at the time of the commission of the offence, to convict the offender; in this that it makes his bare refusal to answer on oath, whether he has or has not committed the offence, conclusive evidence of his guilt, and is in effect a judgment of forfeiture.

It may be contended here as it has been elsewhere, that this test oath is not a *penalty*, nor the act imposing it a penal statute, but that it is an additional *qualification* for office prescribed by Congress. It is not necessary that I discuss *here* the power of Congress to prescribe other *qualifications* than those prescribed in the Constitution for its own members, or any other *officer* of the United States. I presume there are few advocates of the position that Congress has power to prescribe the qualifications of any but officers of the United States. What power has Congress to prescribe the qualifications of the Governor of a State, a member of the State Legislature, or a Judge of a State court? It certainly has none, though they are all citizens of the United States, and all *officers*. An attorney-at-law is an *officer of court* but not an officer of the United States. He is admitted by the court, under rules prescribed by it, to practice in the court, and is answerable alone to the court.

This is the construction given to it by Congress itself. The act of July, 1862, prescribed the test oath for all *officers* of the United States. That of January, 1865, declares that attorneys-at-law shall take the same oath before they are permitted to practice in the United States courts. If Congress had considered them *officers* of the United States they were fully embraced in the Act of July, 1862, and it was an idle waste of time to pass the Act of January, 1865. It is very clear then that the test oath is not prescribed as an additional qualification for an officer. The oath was intended as a *penalty*, and the statute as a penal one, against those who aided in the war against the United States. It was *not* intended to *qualify* the lawyers of this bar for the practice. It *was* intended to *forfeit* their right to practice.

In support of the position that a statute prescribing a *test oath*, which deprives a citizen of his right to hold office is a *penal* one, I refer your Honor to the case of Leigh, 1 Munford's Va. Reps.; and the case of Dorsey, 7 Porter's Ala. Reps. Each of these States had passed stringent acts against duelling, and had prescribed an oath to be taken in Virginia by all *officers* of the State Government; and in Alabama by all State officers and practicing attorneys, that each had not before engaged in a duel and would never engage in one, while he remained in the office. In each case the applicant moved to be admitted to the Bar of the Supreme Court without taking the oath; and in each case the court sustained the motion. The decisions are lengthy, but as they are very able I shall not apologize for reading portions of each to your Honor. And upon the point to which I last referred: I invite the attention of the court especially to the following language of the judges: In Leigh's case, page 482, Judge Roane who was greatly distinguished for his ability, says: "However laudable the object of the act to suppress duelling may be, it is still a highly *penal* law and must be construed strictly. It is *unusually penal* if not tyrannical, in compelling a person to stipulate upon oath, by the 3d section, not only in relation to his past conduct and present resolution, but also for the future state of his mind. Thus premising that this act is highly and *unusually penal*, I will, under the influence of the rules for construing penal statutes, proceed to apply it to the case before us."

Judge Fleming in the same case says: "The act under consideration

being a compulsory law (however salutary it may be), imposing on the officers of the Government an oath unknown to the former law of the State, or of the United States; though there be no *pecuniary penalty* inflicted on those who refuse to take the oath therein prescribed; I cannot but consider it as a *penal statute*, and as such must give it a strict interpretation." Again he says: "Admitting that attorneys are comprehended in the act, it has or ought to have a *prospective* and not *retrospective* operation, and cannot affect officers of any description appointed to office prior to the passage of the act." In Dorsey's case, 7 Porter, 386, Judge Goldthwaite says: "I have omitted any argument to show that *disqualification* from office or from the *pursuit of a lawful avocation* is a *punishment*—that it is so is too evident to require any illustration; indeed it may be questioned whether any ingenuity could devise any *penalty* which would operate more forcibly on society." Again he says: "A citizen is informed that by the laws of the State, he is entitled to aspire to any office or pursue any other avocation which any other citizen can.—Yet when he is about to enter in the office or avocation, he is required to swear to his innocence of a particular crime; it then becomes evident that if he cannot truly take the oath required, he is excluded. Can it be doubted that for all the purposes of the *disqualification* the guilt of the individual is ascertained? In what does it differ from the general enactment that a candidate for office shall be required to prove and establish his innocence of a specified crime? Admitting a person to be guilty, he is neither *accused*, *tried* or *convicted* by any tribunal known to the laws, yet he is punished with unerring certainty, and the utmost celerity; his conscience is made his sole accuser and judge; his punishment commences with the commission of the crime, and terminates only when he ceases to exist; he is excluded from the sympathy of his peers—no legal doubt can intervene to produce his acquittal—an error of his judgment involves his soul in the awful guilt of perjury, or punishes him without guilt. I have no hesitation in declaring that this act provides a mode of ascertaining and punishing guilt which is not only unwarranted by the Constitution, but is also in direct contravention of several of the most important provisions of the declaration of rights, by which the liberties and privileges of the citizens are guarded. * *

When once it is admitted or proved that a citizen has a right to aspire to office or to pursue any lawful avocation, it seems to me impossible that he can be legally deprived of that right by a punishment for an offence committed without a trial by jury; and I can perceive no sound distinction between a law which deprives one of his right without a trial, and that which ascertains and punishes his guilt by an illegal mode of trial." He then refers to the Governor's right to grant pardons, and says: "We cannot presume that the General Assembly intended by this act to interfere with the constitutional prerogative of mercy vested in the Executive, yet this act, if constitutional, imposes a *penalty* which cannot be remitted, and inflicts a punishment beyond the reach of Executive clemency."

In the same case, Judge Osmond says, page 379:

"This is a highly penal law; it excludes, unless its terms are complied with, all persons from practicing as attorneys and counsellors at law in the courts of this State. It must, therefore, receive a strict construction, in accordance with well established principles, and the authority to pass it be clearly and fairly discoverable from the Constitution." And on page 88: "It is so offensive to the first principles of justice to require a man to give evidence against himself in a penal case, that independent of the constitutional interdict, no one in this enlightened age will be found to advocate the principle." But it may be said this is not a case of this kind, as no corporal or pecuniary punishment is the consequence of a refusal to take the oath against duelling.

But are not the results the same, whether punishment follows from the admission, or is imposed as a consequence of silence? Can ingenuity make a distinction between a punishment inflicted in this mode, as a consequence of a refusal to take the oath, by closing one of the avenues to wealth and fame, and a positive pecuniary mulct? If there is a difference, I think it entirely in favor of the latter, so far as the amount or weight of the penalty could effect the decision of the case. On page 381: "With great deference to the opinion of others who may differ from me, I think that the requisition by the Legislature, in substance and effect, requires the applicant for a license to *give evidence against himself*, and that, if not within the letter, is at least within the words of the prohibition—the very foundation of which is that every one is presumed to be innocent till the contrary appears."

He then refers to the constitutional provision that the crime or offence must be ascertained by *due course of law*, and says: The term "due course of law" has a settled and ascertained meaning, and was intended to protect people against privations of their lives, liberty, or property, in any other mode than through the intervention of the judicial tribunals of the country. But the law seeks to ascertain a fact exalted into a crime and punished in a particular manner—not by the judgment of a competent court, but by the admission of the offender, and construing his silence as evidence of guilt.

In a case of *Greene vs. Biggs*, 1 Curtis, Circuit Court, Reps. 325, Judge Curtis of the Supreme Court of the United States, presiding in the Circuit Court, defines what is meant by the *law of the land*. He says: "Certainly this does not mean any act which the Assembly may choose to pass. If it did the legislative will could inflict a forfeiture of life, liberty, or property, *without a trial*. The exposition of the words as they stand in *Magna Charta*, as well as in the American Constitution, has been that they require 'due process of law,' and in this is necessarily implied and included the right to answer to and contest the charge; and the consequent right to be *discharged* from it, unless it is proved." Lord Coke, in giving an interpretation of these words in *Magna Charta*, 2 Inst. 50, 51, says they mean, "due process of law," in which is included presentment or indictment, and being brought in to answer thereto. And the jurists of our country have not relaxed this interpretation. "It follows," says he, speaking of the case before him, "that a law which would preclude the accused from answering to and contesting the charge, * * * and which should condemn him to *fine and forfeiture unheard*, if he failed to comply with the requisition (to give security) would deprive him of his liberty or property—not by the law of the land, but by an arbitrary and unconstitutional exertion of legislative power."

Judge Pitman, in the same case, refers to the fact that the statute under consideration rendered any one engaged in selling spirituous liquors an incompetent juror, and authorized the question to be propounded to him, and says:

"This law authorizes the court to inquire of the juror who may be challenged on this account; it is true, the law says 'he may decline to answer,' but what then? Is the fact to be proved by other evidence? No; this *silence* is considered as sufficient proof, and he is excluded accordingly. He is, therefore, compelled to answer, if he does not wish to be excluded as unworthy to sit as a juror, or does not wish to be considered as concerned in a traffic which may be considered as infamous. The maxim of the common law recognized by the Constitution is that every man is presumed to be innocent until he is proved to be guilty. The whole spirit of this law appears to me to be at variance with the rights of property as well as person. The Legislature has no right by an act to confiscate the property of the citi-

zen; it may be *forfeited* for a violation of law, but this must be done without affecting the rights of the owner thereof to a jury trial."

I beg the pardon of the Court for having taken up so much time reading authorities, but as they are in point, and are the opinions of able judges, and as the question is an important one, I have relied upon the indulgence of the Court. These authorities establish the points I have taken against this law, to my mind, beyond all question :

1. That the attorney is an officer of Court; that he has a *property* in that office; and that it is for life or good behavior.

2. That this act of Congress violates the social compact, *Magna Charta*, and the Constitution of the United States, by depriving him of that *property* without due process of law, in this, that he is in effect convicted, and his property forfeited without presentment or indictment of a grand jury; that he is denied a trial by jury; that he is denied the right to be confronted with the witnesses against him; that he is denied compulsory process for obtaining witnesses in his favor; that he is denied the assistance of counsel for his defence; and that he is compelled to be a witness against himself in a criminal case, or that his *silence* is construed as conclusive evidence of guilt.

3. That the act is in the nature of a bill of attainder, and is an usurpation by the legislative department of the Government of the functions assigned by the Constitution to the judicial department, being a sentence of forfeiture, pronounced by Congress, which being a judicial and not a legislative act, can only be done by the judiciary after trial and conviction.

4. That the law is not and was not intended to be a law prescribing *qualifications* for office, but a penal law *forfeiting* his *property* for the commission of an act, which at the time of its commission had no such penalty annexed by law, and that the act or offence is punished by this law in a *manner* different from that prescribed by law, at the time of its commission; and that the law is for this reason *ex post facto* and void.

But suppose the doctrine to have been fully established that Congress has power to forfeit the property which an attorney has in his office, for having borne arms against the Government, or countenanced those who did, and that it may use test oaths for the purpose of ascertaining who is and who is not guilty, compelling each to suffer the penalty of guilt if he refuses to answer—in other words, drawing contrary to all rule in such case a conclusive *inference* of guilt from a refusal to answer, and pronouncing and executing judgment accordingly. How does the case then stand? The office of the attorney would be forfeited so soon as the court met and tendered the oath and he refused to take it. But certainly not till then. Why not? Because Congress makes the refusal to take the oath conclusive evidence of guilt; or rather it forfeits his estate because he is guilty, and makes the refusal to take the oath stand in the place of trial by jury, and a judgment of guilty rendered by the court. Just as if the Legislature of Georgia should pass an act (no matter how absurd) that when a man is found dead in any county, every man, woman and child in the county, who refuses to swear that he or she was not a party to his death, shall be taken by the sheriff and hanged, and all his or her property shall be confiscated.

But now suppose before the oath is tendered to any, or any one is executed, the pardoning power should grant a full and free pardon to every person in the county, could the sheriff after the pardon with knowledge of its existence, proceed to hang any one, or to seize the property of any one as forfeited? All must admit that he could not. The pardon having been granted before judgment or execution, it leaves the accused in precisely the same condition in which they stood before the charge was made against them; not only with the right to life and liberty, but to the peaceable enjoyment of all their property.

Now the truth is, that most of the attorneys of this court have received, either under the General Amnesty Proclamation of the President, or upon special application, full pardon from the President of the United States, before any court has been held in the State, or the test oath has been tendered to, or refused to be taken by, any one. Admit, then, that the refusal to take the test oath stands in place of a conviction of guilt, and it can have no application to any one pardoned before trial or conviction. It certainly follows, then, that the property of an attorney in his office which was not forfeited prior to his pardon, cannot now be forfeited for the offence for which he was pardoned. In support of this position I quote the following authorities:

"It seems agreed that a pardon of treason or felony *even after an attainder*, so far clears the party from the infamy and *all other consequences* thereof, that he may have an action against any one who afterwards calls him traitor or felon; for the pardon makes him as it were a new man." [7 Bacon's Abr., 416.]

The Court will please note the language that the pardon, even after an *attainder*, clears the party from the infamy, and *all other consequences* thereof. A much stronger case than the one now at Bar, unless the act of Congress imposing this test oath is held by the court to be a bill of attainder, and if so it is unconstitutional and void. But if the act is not a bill of attainder the pardon granted before conviction or attainder must necessarily leave the party in the precise legal *status* which he occupied prior to the commission of the offence.

It was formerly doubted whether the pardon could do more than take away the punishment, leaving the crime and its disabling consequences unremoved. But it is now settled that a pardon, whether by the King or by act of Parliament, removes not only the punishment, but *all the legal disabilities* consequent on the crime. [7 Bacon's Abr., 415; 2 Russell on Crimes, 975; Hob., 681; 2 Hal.'s P. C., 272; 2 Salk., 690; 1 Lord Raym., 89; 4 State Trials, 681; Cas. Temp. Holt, 683; 5 State Trials, 171; Fitzg., 167.]

The effect of such pardon by the King is to make the offender a new man, to acquit him of all corporeal *penalties* and *forfeitures* annexed to that offence for which he obtains his pardon. [4 Blackstone's Com., 402.]

I might add other authorities, but deem it unnecessary. Those already quoted establish the position beyond controversy, that the effect of the pardon is to acquit the offender of all *penalties* and *forfeitures* annexed to the offence. It follows conclusively that the attorney or applicant for admission to the bar who has received a pardon, before indictment or conviction, stands before this court in precisely the condition in which he would have stood, and with all the rights which he would have had, if he had never committed the offence. To hold that Congress can change this, is to hold that Congress has power to destroy the pardoning power vested by the Constitution in the President of the United States alone.

I trust I might safely rest this case here, but before I take my seat I desire to make a few remarks on the law of nations as to the relative rights and duties of those who were lately at war with each other.

Upon this subject I call your attention to the language of Vattel in his Law of Nations in his chapter upon *Civil War*. He says:

"And if there existed no reason to justify the insurrection (a circumstance which perhaps never happens), even in such case it becomes necessary, as we have above observed, to grant an amnesty, when the offenders are numerous. When the amnesty is once published and accepted, *all the past must be buried in oblivion*; nor must any one be called to account for what has been done during the disturbance. And in general, the sovereign whose

word ought ever to be sacred, is bound to the faithful observance of every promise he has made, even to *rebels*." [Vattel's Law of Nations, pp. 423 and 424.]

The terms of capitulation have not only been agreed upon in this case, but the *Civil War* is at an end. The vanquished have in good faith complied with those terms on their part. The Northern construction of the Constitution is established, and slavery is forever abolished. The amnesty has been published and accepted. Then, in the language of this distinguished author, the "past should be buried in oblivion," and neither Judge Law nor any one else should be called to account here or elsewhere, by test oath or otherwise, for what was done by him in accordance with the usages of civilized warfare, "during the disturbance."

This view of this question has also the sanction and authority of Divine Inspiration. In the Bible the distinction between the blood of war and the blood shed in peace, is clearly drawn—the binding obligation to carry out in good faith an amnesty once tendered and accepted is enforced—and the infliction of punishment upon the party who has received the pardon or amnesty for acts done during the war, is condemned.

After the death of Saul, King of Israel, war existed between his son as his heir, and David, the anointed of God, about the succession to the throne. Abner commanded the forces of the son of Saul, and Joab those of David. A battle was fought, in which Joab was victorious. While Abner was retreating, he was followed by Asahel, the brother of Joab, who, after having been warned to desist from the pursuit which he refused to do, was slain by Abner. After this Abner sought an interview with King David, received amnesty, and was sent away in peace.

On learning this Joab was greatly displeased, and without the knowledge of the King sent and brought him back and slew him because he had slain his brother in battle. In other words, Joab slew Abner after he had made peace with the King, because of an act done during the war.

At a later period in King David's life, his son Absalom rebelled against him, and drove him from his throne, and without just cause plunged Israel into civil war. Absalom made Amasa the leader of his forces, and the forces of King David were led by Joab. Before the battle commenced, King David gave strict orders to Joab, that neither he nor any of his men should harm the person of Absalom. During the battle Absalom became entangled by his hair in the boughs of a tree, where Joab found him and slew him, in violation of the King's orders, though peace had neither been made, nor had Absalom been pardoned, nor did the act violate any of the then usages of war. King David wept bitterly over the death of his rebellious son. Afterwards Amasa who commanded the armies of Absalom during the war was pardoned by the King, and placed in command of his forces in an expedition against Sheba, who had raised an insurrection. Joab met Amasa on the march, and smote and slew him.

King David was a man inspired of God, and is said to have been a man after God's own heart. He was a warrior most of his life; and understood both the rules of war, and the Divine will upon the subject. Finally he lay upon his death-bed on the brink of the grave and the verge of eternity. In this solemn hour with full knowledge of his condition, filled with the spirit of inspiration, he gave his memorable charge to Solomon, his son, who was to succeed him upon his throne. In that charge among other things he commanded him to slay Joab, or in other words not to let his hoary head go down to the grave in peace. Not because he slew Absalom, the King's son, in violation to the King's order. The blood of Absalom was shed in battle;

it was therefore the blood of war; and much as it grieved the King's heart, he remembered it not upon his death-bed, against Joab as a crime. But Joab had slain Abner and Amasa after the war, in each case, was at an end and they had made peace with the King. For their slaughter David ordered Solomon, his son, to take the life of Joab. Why? In David's own language, because he shed "the blood of war in peace." This showed the obligation which in the estimation of this inspired man rested upon the victor, after he had made peace and extended amnesty, to protect the rights of the vanquished and to maintain the utmost good faith in carrying out the terms of the capitulation. The fact that Abner had slain Joab's brother in battle was held to be no justification for the slaughter of Abner by Joab after the war was at an end. The slaughter of Asahel was the shedding of the blood of war. The slaughter of Abner was the shedding of the blood of war in peace. The first was justifiable homicide, the second was murder.

In conclusion, I have only to add that I have satisfied my own mind, and I trust the mind of the Court, that the statute requiring the test oath is in violation of the Constitution of the United States, and is for that reason void. And that the Divine law and the laws of nations agree, that when war is at an end, and peace is proclaimed or amnesty and pardon granted to the vanquished, as to the applicant in this case, *all the past must be buried in oblivion*, and no one should be called to account for what was done "during its continuance." And that he who forfeits the property of those who have made peace, for acts done during hostilities, violates the law of nations; while he who sheds the blood of those who have conformed to the terms of the capitulation after hostilities have ended, "sheds the blood of war in peace," and violates not only the law of nations, but the law revealed by the living God.

Atlanta Constitution, Wednesday, July 7, 1880.

OUR COUNTRY.—SPEECH OF HON. JOSEPH E. BROWN, DELIVERED ON THE THIRD OF JULY, 1880, AT THE CITY HALL IN ATLANTA, GA., ON CONSTITUTIONAL RIGHTS, NATIONAL ISSUES AND THE DUTIES OF THE HOUR.

The citizens of Atlanta, celebrating the 4th of July on Saturday, the 3d, assembled in large numbers at the city hall. And at 8 o'clock Capt. John Milledge read the Declaration of Independence. After which Senator Brown, being present by invitation, spoke as follows:

Ladies and Gentlemen: I have been invited here by the committee of arrangements to discuss, as the invitation says, "the national issues of the present presidential campaign." Of course on an occasion of this character it is not expected that I will discuss those issues in a partisan manner, or that there will be any vituperation or abuse of any one in my address. The object of the committee doubtless was that I should refer to the great principles of our grand constitutional system, and should point out such course as in my opinion will best promote the future happiness and welfare of the American people.

I shall not go, as is usual in a Fourth of July speech, into a history of the colonies, or the causes that produced the rupture which separated us from Great Britain. That the colonies had sufficient cause to justify their course no American now doubts, and I believe no Englishman will deny. Suffice it to say, however, that this grand declaration which my friend has just read

in your presence was a masterly presentation of the great principles upon which the war was begun, which lasted for seven years and ended in the complete overthrow of British dominion in this country and the establishment of a free and independent government of free and independent States.

After a short period the bond of union between these States, called the Articles of Confederation, was found to be insufficient to meet the emergencies of the times and foster the great interests of the country, because they did not give to the central government power to carry out the objects necessary in our complex system.

A convention was called, therefore, for the purpose of amending those articles. After mature deliberation, they concluded to recommend to the States of the Union a new constitution—the present Constitution of the United States, without the amendments. That Constitution was submitted for ratification to the respective States, and, after certain delays and reservations that I need not now recite, it was ratified by all the thirteen original States. That Constitution became, therefore, the sheet-anchor and foundation of a great system of constitutional government like no other known to the world. It was an experiment hazardous at the time; and the general prediction of the crowned heads of Europe was that we could not live under such a system, and that it would soon topple to the ground.

The object of our fathers was to have a confederation, or a union of the thirteen original States, and of all other States that might afterwards be admitted into that union, with power to do all that was necessary by a general government for the defence and general welfare, and to preserve to each State individually all the necessary powers to conduct local self-government, and to look after and protect all the great interests of the people of each State. That design was very happily carried out in the Constitution brought forth as the result of the labors of that convention.

That Constitution confers certain great powers upon Congress that were necessary for the general government which had to take charge of the external affairs of a great people, as well as such internal affairs as could not be managed by each State individually. I will call attention to a few of those powers. Power is given by the Constitution to Congress to regulate commerce with foreign nations among the several States and with the Indian tribes.

To establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies, etc.

To coin money, regulate the value thereof, and of foreign coins, and to fix the standard of weights and measures.

To establish post-offices and post roads.

To define and punish piracies and felonies committed on the high seas, and offences against the laws of nations.

To declare war, grant letters of marque and reprisal, etc.

To raise and support armies.

To provide and maintain a navy.

To provide for calling forth the militia to execute the laws of the Union, to suppress insurrections and repel invasions.

These were great fundamental powers delegated by the States under the Constitution to the general government. And when you come to look at them you see they are founded in wisdom. In each case it is a power that can only be exercised by the general government, and could not on account of conflicting interests be exercised by the individual States. Therefore these great powers were delegated by the States to the general government; and it was authorized to execute them.

Then, in order to be guarded, for our ancestors who framed this instru-

ment were great and wise men, they imposed certain restrictions upon Congress. Two or three of the principal ones were, that: The privileges of the writ of *habeas corpus* should not be suspended, unless when in case of rebellion or invasion the public safety may require it. All Englishmen and all Americans have for centuries put the highest estimate upon this great right for the protection of individual liberty. And the right is denied to Congress to suspend it, unless when in cases of insurrection or invasion the public safety requires its suspension.

Then, again, it is provided that no bill of attainder or *ex post facto* law shall be passed. And no title of nobility shall be granted by the United States. There are also other restraints put upon the powers of the general government. I do not speak now of the rights or powers reserved by the States. But the convention in forming the Constitution conferred or delegated certain great powers to the general government. Then there are inhibitions to restrain its action.

Then come certain restraints upon the powers of the States. In other words, in delegating certain powers to the general government for the general good and restraining the action of Congress in reference to certain other matters, it was found necessary to negative the powers of the States to do certain acts in conflict with the delegated powers. What consummate wisdom there was in providing these checks and balances for the government!

The Constitution provides that no State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold or silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility. These powers are expressly denied to the States. Again, no State shall without the consent of Congress levy any duty of tonnage, keep troops or ships of war, in time of peace; enter into any agreement or contract with any other State, or with a foreign power; or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay. These are express inhibitions upon the power of the States. And if you look to them, you will see that while the convention forming the Constitution was delegating certain powers to the Federal Government necessary to its existence, it carefully denied the exercise of those powers to the States. The object was to have the line between the powers of the two so well defined that there might be no just cause of conflict.

In summing up the general powers delegated to Congress this provision occurs: "That Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof." Therefore the Federal Government is limited in its sphere of action to the exercise of delegated powers and the passage of such laws as are necessary to carry into effect the delegated powers. There it is. There is the whole extent of power delegated by the States to the general government. As long as it moves within that sphere and the States move within the sphere reserved by them, there is no room for conflict, and the system works harmoniously and beautifully.

But some of the States were not pleased with the Constitution as it came from the hands of the convention; and they adopted it only with the understanding that at an early period there were to be certain amendments defining the powers of Congress more unmistakably, and making clearer the reserved rights of the States.

The ninth and tenth amendments to the Constitution which followed as the result of that understanding, are as follows: The ninth amendment declares that the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment ten says: "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people."

Take the Constitution then as it came from the hands of the fathers and as amended at an early period, and there seemed to be no room for future trouble or conflict between the two governments. Each was to move within its sphere and, when doing so, the system was a grand, a glorious and a beautiful one.

Thus established upon principles of equity and justice, and founded in the greatest wisdom, the system moved off harmoniously for many years. But the principal disturbing element was found to be slavery. On that point our fathers had difficulty in framing the Constitution. And in order to do justice to all, they were careful to incorporate into it this provision:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such labor or service may be due."

Without that provision in the Constitution it is well known it would never have been agreed to by the slave-holding States. For a long time we had no difficulty, but finally the anti-slavery feeling in the North grew to a point where certain of the Northern States positively refused to carry out that essential fundamental provision of the compact of union. We of the South felt that this was a great grievance, and we remonstrated and did all in our power to have that provision faithfully met and carried out. While this question was progressing in a very unsatisfactory manner, the difficulties about slavery in the Territories reached a point where there was great excitement all over the Union, and we were almost in the throes of a revolution. At that time a sectional party was organized, and that party, with great strength in all the Northern States, placed a candidate in the field opposed to the extension of slavery in the Territories, which the South thought of the utmost importance. When the election of Mr. Lincoln was an accomplished fact, the people of the South naturally looked about for new safeguards. We felt that the right of secession was an inherent right. That was our honest opinion. We determined after consultation among the different Southern States that it was the only remedy left for the protection of slavery. It may have been unwise to exercise it. On that subject there were honest differences of opinion. As it turned out, it proved unfortunate, although if we had not met the issue then, we would have had to do it at a little later period, or our children would. Probably it was as well to meet it then if it had to come. We undertook to exercise that right. The Federal Government then in the hands of the Northern States made war upon us to compel us to return to the Union. That war was long and bloody. On both sides deeds of gallantry of the highest order were performed. No people ever fought more gallantly. It was American meeting American on the bloody field of battle. [Applause.] Suffice it to say, that on account of a vast superiority of numbers possessed by the people of the North, and on account of the blockade thrown around us, after a grand and gallant struggle, we were forced to surrender.

Then came one of the difficult periods in the history of the government; the reconstruction period. After we surrendered the great trouble was to determine what was our status—whether we were in the Union or out of the

Union. We had been told all the time of the contest that our ordinances of secession were nullities; that we were still in the Union. At the end of the struggle, when we sent back our senators and representatives to take seats within the halls of Congress, we found we were still out of the Union. It is not for us to explain the inconsistencies of the government on that point. Suffice it to say that those having the power then, as our conquerors, dictated terms we of the South thought and still think exceedingly hard. We differed among ourselves about the best means of meeting the emergency. Some of us thought we saw no chance but to acquiesce in the dictation of the conqueror. If we could not succeed when we had 500,000 of the gallant sons of the South in the field, armed and ready for battle, how were we to resist further, when we had surrendered our armies and they stood with 1,200,000 bayonets over us? Others thought at the time we might get rid of these measures by means of the Democratic party. We differed and differed, I may say, in an angry spirit sometimes, but honestly on both sides. We went through a hard period. I will not now attempt to enumerate all the hardships of the reconstruction measures. Neither my strength nor your patience would permit it. I need only say that we were finally obliged to come to the point of acquiescing in all the reconstruction acts of Congress and of adopting the three constitutional amendments, the 13th, 14th and 15th, as dictated by our conquerors. To-day, whatever may have been our differences of opinion in the past, we are a unit on that point; we have all acquiesced. We have adopted the three amendments to the Constitution as part of the reconstruction measures, and all of us who have held office since that time have sworn to support them.

We have even gone so far, in our national Democratic platform at St. Louis in 1876, as to declare that we renew our devotion to the Constitution with the amendments. I confess, fellow-citizens, I had never felt devoted to them; but I took them as part of the reconstruction acts. I agreed in good faith to adopt them, and I intend in all good faith to carry them out [Applause.] as earnestly and honestly as if they had met my cordial approval. [Applause.] The reconstruction acts have been enforced. We are now acknowledged to be back in the Union.

Now the question naturally comes up, as to our future, what is best for us to do. Leaving behind us all these hardships, and they were great hardships, burying in a common grave all our past differences, let us come together, attribute to each other none but proper motives, and move forward in a common cause to a common destiny; not only us of the South, but let us extend a hand to our brethren of the North, and remember that while we were enemies in war, we are brethren in peace. Let us clasp hands with them across the bloody chasm and bury the bloody shirt beyond the reach of resurrection. [Applause.]

It can do us no good to enter into any contentions about the past. Who was right and who was wrong is not the question. None of us, I apprehend, now desire any sort of triumph over any other patriot on account of any differences, or on account of any results. What can we best do in future to make the South prosperous and happy? And what can we best do, not only for the South, but for the whole Union?

One of the results of this great struggle that I have referred to was the abolition of slavery. Yes, it is abolished—forever abolished. It must forever remain so. Another result was to settle forever the question of the right of secession. We formerly had that right. I have no doubt of it. [Applause.] It was an inherent right. But when we undertook to exercise it, the Government of the United States denied the right and made war upon us, and we were obliged to go into that struggle and accept the issue, with the

knowledge that if we failed and our armies were conquered the right was forever lost. [Applause.] That was the necessary result, and it is lost, and we all accept the arbitrament of the sword. Let us proclaim it North and South, in future, that we will never again attempt to exercise the right of secession. [Applause.] Every State formerly had the right; no one has it now. War always settles something, and it has settled that question, and settled it forever.

But, while that is true, it has not settled that we have lost all our states rights, or all our constitutional rights. And my reference to certain provisions of the Constitution was with a view to this connection. What have we lost by the war? We have lost property and lives; but I am speaking now of the principles of government. We have lost slavery with the right of secession. And we lost out of the system whatever rights were surrendered in the 13th, 14th and 15th amendments. [Applause.] As far as they have modified the original Constitution, we are bound to conform to them and we must, as good citizens, in good faith, carry them out, whether we were devoted to them or not. Patriotism and honor require that. Every principle of good faith requires it, and we cannot afford to do otherwise. But neither the States of the South, nor the States of the North have lost any more of their rights. All the rights of the States that were reserved under the Constitution, except those enumerated, are still reserved, and we still possess them, in all their original vigor, just as we did when the Constitution came from the hands of our fathers. [Applause.]

And allow me to tell you that we are not singular in claiming this. The people of New England are as little inclined to give up these rights as we are. The Constitution of Massachusetts to-day is probably as good a states rights Constitution as any in this Union. Clay, Webster and Jackson held one construction of the Constitution. Calhoun, that great luminary of the South, and Jefferson, the author of the Declaration of Independence, held another. Each school had its adherents. As the result of the war, the Jeffersonian and Calhoun platform has been modified, and we have lost the right of secession and the rights yielded under the three amendments. We have lost no more. We stand, therefore, with all the rights in the Union that were claimed by Clay, Jackson and Webster; and if we are true to ourselves, we will not yield them, and no section will require us to yield them. This is not a sectional question now. Bear you in mind that New England stood as firmly by them under Webster's interpretation as the South did. With the modifications mentioned, therefore, the States stand to-day with all their reserved rights. Now that the slavery question is out of the way, and their rights are understood, I see no reason why we may not move forward in a grand and glorious progress to wealth, to power and to greatness. That is certainly the earnest wish of the people of all sections of the Union. Let us then bury sectional strife. Why should the people of Georgia longer be the enemies of the people of Massachusetts? or why are the people of South Carolina the enemies of the people of Illinois? There is no reason for it. It must not be so. If it is, we cannot prosper. We can only prosper when we all stand by our constitutional rights and practice them in future.

And now a few words in reference to the presidential contest. I was requested to say something about the issues involved there. It is a matter of the greatest possible importance to all of us that we preserve constitutional government with all the rights that we now have. For the last twenty years the government has been in the hands of the Republican party. And I do not say that they are more corrupt than any other party that has had power that long. But no party should be trusted with power for a longer period than that in a free government, without change. Corruption and abuses will creep

in when there is a long reign of power and no other party comes in to overhaul what has been done or to put checks upon it.

It was natural, my fellow-citizens, at the end of the war, as the Republican party had been the great war party, and had been triumphantly the successful party, that they should hold the reins of government for a number of years to come. I would have read history in vain had I not learned that that was to be the result. I foresaw it at the time of the surrender. We could but expect them to control the government for a long time. They have held uninterrupted power till extravagances and corruptions have crept in, as they might have done had the democracy been twenty years in power. And I think it is the interest of the whole people of the United States to have a change. We should have an overhauling once in a while. And now I think is the time for it. [Applause.]

I have already said that a new element has been introduced into the body politic. The slaves were not only set free and slavery forever abolished, but as part of the reconstruction measures, those who were formerly slaves were made our fellow-citizens and placed by our sides with the ballot in their hands. It was a fearful experiment. I so regarded it at that time. But the conquering power dictated it, and there was no other alternative. It has in practice worked better, I confess, than I anticipated, and probably worse as a party measure, than the party in power anticipated.

I am on record in speeches I made in 1868, as saying that in ten or fifteen years the Republicans of New England would regret that they gave the colored man the ballot. The fourteenth amendment provides that if there is any race or class of people (I do not quote the exact language) denied the elective franchise, they shall not be counted among our representative population. Therefore if we do not give the colored race the vote, none of them would be counted in making up the representative population of the South. The colored race counted gives thirty odd votes in Congress and a like number in the electoral college.

In 1876 I was invited by the Democratic executive committee of the Union to aid in looking after a fair count in Florida. While there I twitted some of the gentlemen on the Republican side, saying it would not have been necessary for them to be there trying to get the vote of the State by unfair means, if they had not given the colored man the ballot. "Without it in the count," said I, "you would have had thirty majority and your candidate would have been overwhelmingly elected." One of them, using an expletive that I will not repeat, said, "Yes, the negro is a failure, and we are sorry that we did it." still using expletives. [Laughter and applause.]

It is, therefore, a source of power to us. They have acted well as an uneducated race, given the ballot under such circumstances. They have done probably better than any other race would have done. They are orderly now; and go to the polls and vote by our sides, and many of them for our candidates. By counting them we have this great additional strength that we would not otherwise have possessed. And whenever any constitutional amendment is proposed by the people of the North to take back the ballot from the colored man you will find the democracy of the whole South rallying to the colored man. He gives us power and he shall ever exercise the elective franchise! [Great applause.] He shall no more be a slave; and he shall evermore be a voter. [Applause.] We were apprehensive of danger when they were misleading the colored people, but it has worked out to their advantage and to ours. It is the interest of the colored man to stand by us; and it is our interest to stand by him. We were raised together. We played together in boyhood. We got along finely together; why should either race then abandon the other? Why should he run off after strangers?

It is better for us to act together, deal justly, and all be fellow-citizens together, and do everything in our power to build up this great section of ours, to develop its resources, and to make it rich and powerful.

In this connection allow me to say that there is a national obligation which arises here. By the abolition of slavery and the enfranchisement of the colored man, the whole race were made citizens. Now that they are citizens it is our interest and duty to make them the best citizens in our power. We ought to do all we can to make them good citizens. And to do that we must educate their children, or help to do it. We have most of the property. The taxation falls mostly upon us. The whole country is poor; I am willing at all times to submit to my part of the burden, to raise whatever sum is necessary to educate the children of the whole State. [Applause.] But I say this burden ought not to be put upon the property and the people of the South alone. The Northern States required abolition. The interest of the Union they said required it. Then if it was the interest of the Union to turn loose these four millions of people and absolve them from slavery and make them citizens, it is the interest of the whole Union now to help them to be good citizens—not only is it the interest but the solemn duty and obligation of the Union. Therefore, I say their children ought to be educated, not out of our tax or our property alone, but out of the property of the Union. And in this connection allow me to say, as I see my friend, Dr. Orr, the State school commissioner, present, that he was in a convention of school commissioners in which most of the Northern States were represented, and they agreed to recommend a measure to Congress, and that measure is now pending there, to appropriate the proceeds of the public lands in future to the education of the mass of the people. [Applause.] What better use could ever be made of it? None, none! Take the proceeds of the public lands, then, divide them among the States in proportion to the number who are illiterate, and let us have it as an educational fund, and we will soon make an intelligent people. We will soon educate not only our white children who have had no such advantage, but we will educate the colored people, and we will advance the cause of prosperity and progress, not only in the South, but all over the North! What could be better?

You tell me that it costs money to educate the people. I know it. But I tell you that you will never find an enlightened, educated people who do not make money. If you want to get rich and powerful, educate the whole mass of your people.

Take Prussia as an instance. Napoleon the First swept over that country like a tornado, and scattered everything to ruin. After his fall, Prussia met to look into her system and devise means to build up the country. The wise counsels of the professors and teachers prevailed; and the King determined to educate the whole people. They said to a man who would not send his son to school: "You are responsible for bringing this human being into existence. You have no right, sir, to raise him in ignorance and vice, so that he will become a pest to society. But you shall send him to school. He shall have reasonable opportunities." The law so required and what has been the result? That little kingdom that the great conqueror swept over almost without resistance, has since risen to be one of the first powers upon the earth, and has humbled his successor and driven him from the throne. Why was it that the Prussians were more powerful than the French in the late struggle? Military men assign many reasons. The universities of France are of as high order as those of Germany. But the mass of the people of France are not educated as in Germany. Hence, in that great contest the French people did not have the benefit of all the powerful intellect of France developed for the struggle. Germany did. Under her system, when

a poor boy is found mentally to possess a glittering diamond, which it is only necessary to polish that it may sparkle, he is taken up and educated accordingly. If he develops a genius for chemistry, they put him through the university and make him a chemist of the highest order. If another is found adapted to the military, they give him every advantage to make him a grand military commander. If he has capacity for medicine, he is thus educated to a high degree for that profession. So, if another is found adapted to law, or another to architecture. And so on. And what has been the result? When the great struggle began, Prussia had all her brightest jewels in intellect polished. She had a man ready for every position, and competent for every duty. Whenever you educate the whole American people, all the bright-eyed boys up in these mountains and down in the wire-grass who to-day may be wholly unconscious of their powers, with the opportunities they have at school, will soon begin to find that they have mental powers, and you cannot keep them down. And when educated the government will get the benefit of this power.

I said soon after the war, and have never taken it back, that if I were dictator of Georgia, I would issue a million of dollars in bonds, put them in the treasury of Georgia and draw the interest annually for your University and its branches. I would make, in addition to the branches we already have, two more, one in the eastern and one in the western part of the State. I would make the University all that could be required, and then advance the public schools till all these bright jewels could be seen by their sparkling. We would then know how to find them. I would put them forward in the schools and in the Universities; and what do you think would be the result within a few years? Talk about the expense—seventy thousand dollars per annum—what is it? Why not a mill on the dollar of our taxable property. Soon it will be only half a mill. Why not pay it to promote the education of our people and produce such a result? Nothing could be wiser; nothing could redound so to the wealth, prosperity and glory of Georgia. You would draw to you first the youth of adjoining States; then, as you build up higher and higher, they would come in all around from Virginia to Texas, and from the Ohio to the Atlantic. You would find youths of every State at your University spending not thousands, but hundreds of thousands of dollars a year in Georgia, and thus advancing the wealth and prosperity of our State. I say, then, let us educate the mass of our people, and let us see to it the colored man has as fair a chance as the white man. That was our compact with them at the end of the war, when we established our school system and a college for each race. Let it be carried out in the utmost good faith.

Well, you may ask what is best for us to do at the present time in our national affairs. In my honest opinion the best course to pursue to preserve constitutional government, the rights of the States and the liberties of the people, and to develop our interest, is to have a change of administration and put such a man as General Hancock in power at the head of the government. [Applause.] I say it in no partisan sense. I believe that the interest of this whole country requires it. And you have this great point to encourage you. During the reconstruction period, when military power was dominant here, when men were sent down clothed with arbitrary power, holding the destinies of life and death in their hands, General Hancock was sent with that power to New Orleans to exercise it in Louisiana and Texas. What was the result? While there clothed with all the plenitude of military power, with the right under the law to do just as he pleased in this matter, subject only to the will of the President, who left everything to him, he refused to permit the supreme power to be military; but placed the civil over the military. [Applause.] Can you not trust a man in times like these, who could act thus in times like those? I think you may. [Applause.]

INDEX.

- Abbott & Bro., 483.
Abolition Slavery, 414.
Agriculture Dept., 495.
Akerman, A. T., 54.
Akin, W., 52, 108, 109, 440.
Alabama, 168, 172, 173, 184, 205, 320, 432.
Ala. & Chat. R. R., 467.
Alexander, J. R., 52, 65, 66.
Alexander, P. W., 439.
Alexander, T. W., 52.
Allen, A. A., 37.
Allen, T., 484.
Amendment, 421, 435, 443, 444, 462.
Anderson, J. W., 102.
Anderson, Major, 203.
Andrew, J. O., 49.
Andrews, G., 80, 81, 456.
Anthony, S., 49.
Area of State, 4.
Area of C. S., 207.
Area of U. S., 207.
Argument in Florida, 507.
Arkansas, 172, 197, 200, 206, 432.
Arms Seizure, 183.
Arnold, W., 49.
Atlanta, 320.
Avery, W. L., 470.
Axson, I., 50.
- Bacon, I. T., 52.
Bacon, R. I., 52.
Bailey, D. J., 38, 82, 102.
Bailey, S. T., 53, 64.
Bainbridge, C. & C. R. R., 467.
Baker, Gen., 235.
Baker, J. S., 49.
Ball, J. M., 483.
Bank Cases, 61.
Banks, 119-128.
Banks, H., 483.
Barnett, S., 498.
Barney, J. W., 52.
Barney, T. I., 52.
Bartlett, G. T., 54.
Bartow, F. S., 53, 179, 185, 224.
- Beauregard, Gen., 203, 218, 222, 224.
Bea, Gen. B., 224.
Bell, H. P., 186.
Benning, H. L., 39, 60, 61.
Berrien, I. W. M., 52.
Berrien, J. M., 43, 44, 52, 105.
Berrien, T. M., 52.
Birgham, B. H., 54.
Billups, J. A., 54.
Black John, 115.
Blair, F. P., 446.
Bleckley, L. E., 54.
Blockade, 237.
Blodgett, Foster, 481, 483.
Bonds, State, 251, 465.
Bonham, Gen., 224.
Boring, J., 49.
Boundaries of State, 5.
Bower, I. E., 52.
Boynton, Jas. S., 589.
Bragg, Gen., 211.
Brantley, W. T., 49.
Breckenridge, J. C., 92, 198.
Broadhead, Jas. A., 446.
Brothers, Georgia, 51, 52.
Brown, Charles M., 99, 569.
Brown, Elijah A., 99.
Brown, Franklin P., 100.
Brown, J. R., 52, 97.
Brown, Joseph E., 37, 52, 67, 68, 69, 70, 88, 89, 91, 138, 220, 257, 259, 325, 330, 344, 348, 355, 359, 360, 364, 371, 387, 388, 392, 397, 398, 400, 403, 408, 409, 425, 428, 436, 454, 469, 480, 481, 484, 488, 501, 507, 521, 524, 529, 531, 561, 562, 564, 586, 591.
Brown, Jos. M., 99.
Brown, Julius L., 99, 488.
Brown, Mackey, 95.
Brown, Sallie, 99.
Brunswick & Albany R. R., 468.
Buchanan, H., 54.
Buchanan, Pres., 198.
- Buckner, Gen. S. B., 232.
Bull, O. A., 37.
Bull Run, 222.
Bullock, R. B., 146, 443, 444, 451, 453, 459, 463, 467, 470, 473, 475, 481, 485.
Burch, R. S., 54.
Butler, D. E., 439.
Butler, Gen., 217.
- Cabaniss, E. C., 52.
Cabbages, 313.
Calhoun Academy, 96.
Calhoun, J. M., 52.
Cameron, S., 484.
Campbell, D. C., 186.
Campbell, D. G., 42, 59.
Campbell, J. H., 49.
Candler, M. A., 315.
Capers, Gen., 246, 250.
Cartersville & VanWert R. R., 468.
Celia, 315.
Cemeteries, 17.
Central R. R., 252, 484.
Chandler, A., 49.
Chandler, T., 153.
Chappell, A. H., 53, 64, 440.
Charities, 18, 568.
Charleston *Mercury*, 236.
Charlton, R. M., 53.
Chastain, E. W., 53.
Cheatham, Gen. F., 233.
Cherokee R. R., 468.
Chinese, 562.
Chisholm, E. D., 54, 102.
Choice, Wm. A., 116.
Christian Sabbath, 160.
Church, A., 49.
Churches, 16.
Cities, 13, 14.
Civil Service, 562.
Clark, Gov. John, 34, 38.
Clark, R. H., 54, 102, 160.
Clark, W. W., 53.
Clayton, W. W., 102.
Cleghorn, Capt., 179.
Climate of State, 8.

- Clinch, D. L., 34.
 Cobb, H., 39, 43, 51, 66, 68, 71, 72, 76, 78, 80, 83, 91, 103, 131, 135, 185, 187, 194, 424, 448.
 Cobb T. R. R., 67, 68, 160, 185.
 Cobb, T. W., 42, 59.
 Cochran, A. E., 39, 102.
 Code of Ga., 159.
 Cole, E. W., 484.
 Colfax, S., 447.
 Collinsworth, J., 49.
 Collards, 315.
 Colleges, 19, 20, 21.
 Colley, J., 49.
 Collier, J., 52, 483.
 Colquitt, Alfred H., 497, 499, 521, 522.
 Colquitt, P., 219.
 Colquitt, W. T., 43, 44, 71, 73.
 Common Schools, 146.
 Cone, F. H., 43, 64.
 Cone, P., 55.
 Confederate Constitution, 190, 194.
 Confederacy, 181.
 Congress, Prov., 184, 190.
 Conkling, Senator, 525, 564.
 Conley, B., 464, 475.
 Connally, Mary V., 99.
 Conscription, 249, 355.
 Constitution of State, 412, 441, 497.
Constitutionalist, 86.
 Contracts, 412.
 Controversy, Brown and Davis, 261, 355.
 Convention, State, 71, 104, 411, 434, 439, 443, 449, 497.
 Cook, G., 484.
 Cook, Phil., 439.
 Cooper, M. A., 34, 55, 82, 92.
 Correspondence, 320, 355, 398.
 Cotton Exposition, 520.
 Cotton Money, 562.
 Counties of State, 4.
 Cow, 313.
 Cowart, R. J., 53.
 Crawford, G. W., 34, 39, 77, 103, 185.
 Crawford, M. J., 40, 194.
 Crawford, N. M., 49.
 Crawford, W. H., 40, 42, 59, 95.
 Crittenden, J. C., 198.
 Crook, L. W., 54.
 Culpepper, C., 48.
 Cumming, H. H., 52.
 Cumming, William, 52.
 Cumming, J. B., 464, 496.
 Currency Bonds, 473.
 Cuyler R. R., 55, 252.
 Dabney, W. H., 52.
 Dade Coal Co., 488, 489, 503.
 Daniel, W. C., 186.
 Davis, J., 49, 187, 217, 227, 236, 257, 259, 267, 312, 318, 355, 359, 360, 365, 371, 388, 392, 436.
 Dawson, A. H. H., 53.
 Dawson, J. E., 49.
 Dawson, W. C., 34, 43, 63.
 Debt, National, 562.
 Debt, War, 412.
 DeGraffenreid, B., 52.
 DeGraffenreid, W. K., 52.
 Delano, J. S., 484.
 Delaware, 186, 197.
 DeLyon, L. S., 53.
 Dinsmore, W. B., 484.
 Dobbins, M. G., 483.
 Dobbins, W. B., 483.
 Dodd, P., 483.
 Donation to State University, 577.
 Dooley, J. M., 42, 59.
 Dougherty, C., 34, 43, 51.
 Dougherty, R., 51.
 Dougherty, W., 51, 60, 61.
 Douglass, E. L., 52.
 Douglass, M., 52.
 Doyall, L. T., 54.
 Duncan, J. P., 50.
 Dunnegan, J., 55.
 Early, Gen., 320.
 Edam, S. C., 52.
 Education, 146, 562.
 Elam, W. D., 52.
 Elliott, S., 49.
 Elzey, A., 182.
 Embassy to England, 196.
 Estill, J. H., 578.
 Evans, Gen., 234.
 Evans, J. E., 49.
Examiner, Richmond, 236.
 Ezzard, Wm., 53.
 Fannin, I., 52.
 Featherston, L. H., 53.
 Ferrell, B. C., 53, 102.
 Few, I., 49.
 Fielder, Herbert, 313, 495.
 Fleming, W. B., 37, 53.
 Florida, 172, 173, 184, 206, 506.
 Floyd, Gen. J. B., 218.
 Floyd, J. I., 51.
 Floyd, S., 51.
 Forces, State, 245, 258, 263.
 Forrest, Gen., 320.
 Forsyth, Jno., 38, 42, 95.
 Fort, Moses, 48.
 Fort Pickens, 202, 210.
 Fort Pulaski, 178.
 Fort Sumter, 185, 202, 210.
 Foster, A. G., 63.
 Foster, I. R., 255, 312, 317, 418.
 Foster, N. G., 40, 51.
 Fouché, S., 55.
 Fourteenth Amendment, 420, 435, 443, 462.
 Fullarton, A., 398, 399, 403, 405, 408.
 Furlow, T. M., 109, 439.
 Gardner, J., 55, 86.
 Gartrell, J. O., 52.
 Gartrell, L. J., 43, 52, 53, 102.
 Geologist, State, 158, 496.
 Georgia, 30, 320, 432.
 Georgia Code, 159.
 Georgia Hospital Association, 307.
 Gibson, O. C., 51.
 Gibson, W., 51.
 Gilmer, G. R., 38.
 Glenn, J. W., 49.
 Glenn, L. J., 53, 439.
 Gold Bonds, 474.
 Gordon, John B., 443, 497, 520.
 Gould, W. T., 53.
 Graham, J., 439.
 Grant, Gen., 431, 444, 447, 453.
 Grant, J. T., 484, 488.
 Grant, W. D., 488.
 Great Seal of State, 486.
 Greeley, Horace, 451.
 Green, H., 54.
 Gresham, J. I., 53, 439.
 Gresham, Rev. Jos., 98.
 Guerry, T. L., 55, 440.
 Hall, G. A., 54.
 Hall, J. I., 466.
 Hall, R. S., 52.
 Hall, Sam., 52, 54, 186.
 Hammel, A., 59.
 Hammond, A. W., 53.
 Hammond, D. F., 37.

- Hansell, A. H., 51.
Hansell, A. J., 51, 54.
Haralson, H. A., 43, 45, 82.
Hardee, Gen., 232.
Hardeman, R. V., 37.
Hardeman, T., 54, 439.
Harden, E. J., 531.
Harper, R. G., 67.
Harris, I. L., 53.
Harris, J. L., 54.
Harris, J. V., 59.
Harris, J. W., 55.
Harris, W. A., 54.
Harris, W. G., 43.
Harrison, B. K., 53.
Harrison, G. P., 102, 247, 250.
Harwell, J. M., 483.
Hawkins, W. A., 54.
Health of State, 9.
Henderson, J., 49.
Henderson, T. J., 495.
Hester, R., 54.
Hightower, T. J., 483.
Hill, B., 52.
Hill, B. H., 67, 69, 81, 85, 88, 94, 109, 117, 185, 424, 436, 439, 440, 448, 484, 497, 564, 591.
Hill, E. Y., 34, 51, 102.
Hill, Joshua, 51, 109, 461, 485.
Hillyer, J., 43, 53.
Hillyer, S. G., 49.
Holmes, A. T., 49.
Holt, H., 63.
Holt, W. S., 484.
Holt, W. W., 37.
Hood, Gen., 318, 320.
Hospital Association, 307.
Howard, T. C., 55, 102.
Hoyt, S. B., 483.
Hudson, C. B., 480, 501.
Huger, Gen., 217.
Hughes, D., 439.
Hull, H., 43.
Hull, W. H., 53, 66.
Hutchings, N. L., 52.
Indiana, 562.
Ingram, P., 54.
Internal improvements, 141, 145.
Investigation, 417, 500.
Irvine, C. M., 49.
Irwin, D., 52, 106, 160, 443.
Iverson, A., 39, 63, 79.
Jackson, H. R., 53, 66, 67, 182, 183, 245, 250, 530, 560.
Jackson, Jas., 37, 577.
Jackson, Jos., 43.
Jackson, Stonewall, 224.
Jamison, S. Y., 53.
Janes, T. P., 495.
Jenkins, C. J., 47, 72, 75, 76, 77, 78, 411, 415, 416, 420, 424, 432, 456, 472, 473, 496, 591.
Johnson, H. V., 38, 47, 71, 74, 76, 77, 78, 80, 83, 119, 131, 132, 135, 141, 156, 411, 417, 424, 438, 440, 590.
Johnson, J., 63, 410, 413, 414, 416, 417.
Johnson, President, 311, 410, 416, 444.
Johnson, R. M., 53.
Johnson, W. B., 484.
Johnston, Gen. A. S., 232.
Johnston, Gen. J. E., 218, 222, 318, 320.
Jones, C. C. Jr., 497.
Jones, J., 49.
Jones, J. A., 51, 54, 56, 102.
Jones, J. J., 54.
Jones, S., 51, 57, 61, 63.
Jordan, C. S., 417.
Kenan, A. H., 53, 102, 185.
Kenan, O. H., 56.
Kentucky, 168, 172, 197, 200.
Key, C., 49.
Kiddoo, D. H., 39.
Kimball, H. I., 467, 473, 484.
King, J. P., 55, 484.
King, T. B., 53.
King, Wm., 310.
Knight, N. B., 54.
Know Nothings, 79, 81, 456.
Kollock, H., 49.
Lamar, G. B., 253.
Lamar, H. G., 53, 86.
Lamar, L. Q. C., 67, 68.
Lamar, Senator, 564.
Lane, C. W., 50.
Latham, T. A., 56, 57.
Law, J., 53.
Law, W., 53.
Lawton, A. R., 53, 179, 250, 528, 561.
Lawton, W. J., 102.
Lease, State Road, 480, 501.
Lee, Gen. R. E., 218, 530.
Leesburg battle, 234.
Legislature, 459.
Lester, G. N., 52.
Lester, P., 52.
Letcher, Gov., 220.
Letters, 319, 325, 345, 348, 355, 359, 360, 365, 371, 388, 392, 398, 400, 403, 405, 447, 502, 570, 578.
Leverett, W., 96.
Lewis, D. W., 53.
Lewis, Dr. J. W., 98, 132, 141.
Lewis, M. W., 54.
Leyden, A., 483.
Lincoln, Pres., 217, 320, 410, 445.
Liquor, 238.
Little, Dr. Geo., 496.
Lloyd, T. E., 53.
Lochrane, O. A., 54, 417.
Longstreet, A. B., 49.
Longstreet, Gen. J., 224.
Losses, war, 308.
Louisiana, 172, 173, 186, 206.
Love, P. E., 37, 102.
Lovell, J. M., 53.
Lumpkin, J. H., 37, 40, 73, 86, 87.
Lumpkin, W., 38, 41.
Lyon, Gen., 234.
Lyon, J., 52.
Lyon, J. R., 54.
Lyon, R. F., 52.
Mabry, C. W., 54.
Macon & Brunswick R. R., 472.
Macon & Western R. R., 484.
Magruder, Gen. J. B., 217.
Mahone, Senator, 562, 564.
Malory, C. D., 49.
Manassas, 226.
Mann, A. T., 49.
Manufactories, 15.
Maryland, 172, 186, 197, 200, 320.
Mason & Slidell, 227.
May, B., 484.
McAllister, M. H., 34, 76.
McCane, R. W., 54.
McClellan, Gen., 217, 219, 224.
McCulloch, Gen. B., 234.
McDonald, C. J., 34, 37, 39, 71, 72, 73, 78, 79, 81, 105.
McDougald, A., 51, 63.
McDougald, D., 51, 63.
McDowell, Gen., 217.
McIntosh, L. H., 255.
McIntyre, A. T., 54.
McKay H. S., 53, 487.

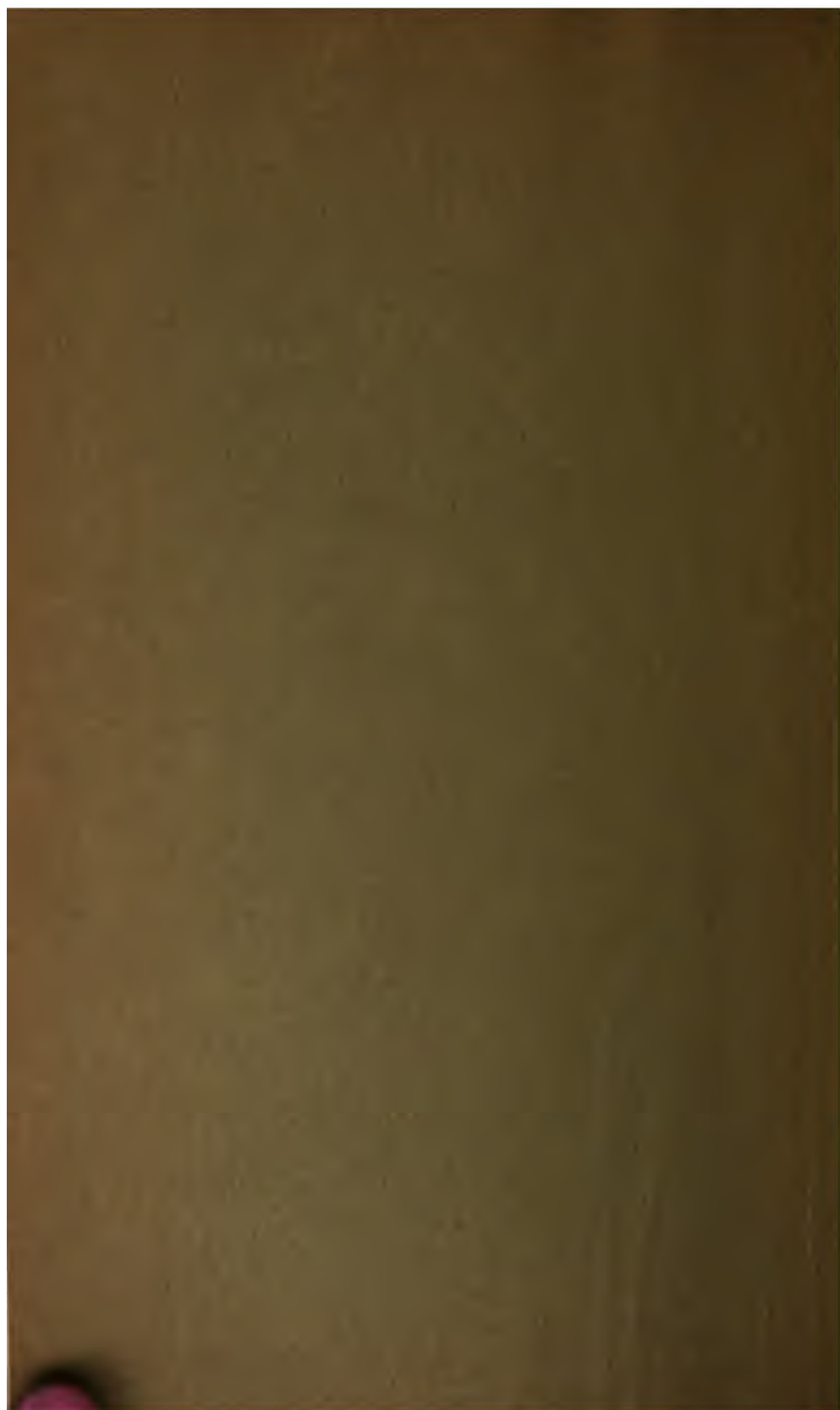
- McKinley, C. G., 51.
 McKinley, E. D., 51.
 McKinley, W., 51.
 McLester, W. W., 439.
 McMillan, G., 466.
 McMillan, R., 53.
 McNaught, Wm., 483.
 Meade, Gen., 433, 444.
 Means, A., 49.
 Mell, P. H., 49.
 Mercer, J., 59.
 Mercer, G. A., 439.
 Mercury, Charleston, 236.
 Meriwether, J. A., 43, 47.
 Merrell, H. F., 51.
 Merrell, W. W., 51.
 Message, 112, 115, 117, 119,
 121, 123, 128, 135, 136,
 138, 143, 147, 152, 158,
 161, 164, 168, 245, 249,
 250, 253, 255, 263, 265,
 268, 271, 306, 309, 416,
 421, 475.
 Mexican pension speech,
 525.
 Military administration,
 162
 Milledge, J., 53.
 Milledgeville, 312.
 Miller, A. J., 43, 46, 47, 102.
 Miller, Dr. H. V. M., 54, 81,
 461, 577.
 Milner, J., 53.
 Minerals, 10.
 Mississippi, 168, 172, 173,
 184, 186, 206, 320, 432.
 Missouri, 172, 197, 200, 206.
 Mitchell, Wm. M., 577.
 Mobley, J. M., 54.
 Moore, A. B., 185.
 Morgan, H., 52.
 Morgan, J. B., 54.
 Morgan, Gov., 183.
 Morgan, Gen. J. H., 320.
 Mormons, 562.
 Morrill, W. C., 484, 488.
 Morris, T., 54.
 Mosely, Wm., 49.
 Murphy, C., 52, 102.
 Myers, E. H., 49.
 Nelson, Gen., 234.
 Netherland, G. M., 480, 501.
 Neufville, E., 49.
 Newspapers, 22.
 Nicoll, J. C., 36.
 Nisbet, E. A., 52, 61, 62, 63,
 64, 109, 109, 174, 185.
 Nisbet, J. A., 52.
 North Carolina, 172, 186,
 197, 200, 206, 320, 432.
 North Eastern R. R., 500.
 Norwood, Thos. M., 527.
 Nunnally, A. D., 480, 482,
 501.
 Nutting, C. A., 484.
 Oliver, B., 54.
 Ordinance for contracts,
 412.
 Ordinance war debt, 412.
 Ordinance of Secession,
 174, 411.
 Ormond, J., 483.
 Orr, J. L., 185.
 Overby, B. H., 53, 80.
 Owens, G. S., 52.
 Owens, J. W., 52.
 Pardon power, 113.
 Parks, W. J., 49.
 Parole, 311.
 Parties in State, 33.
 Patterson, Gen., 222.
 Peace, 195, 198.
 Peoples, C., 53.
 Pennsylvania, 320.
 Perkins, W. C., 52.
 Peters, R., 484.
 Pettus, J. Q., 186.
 Phillips, C. D., 52.
 Phillips, G. S., 55.
 Phillips, Wm., 52, 182, 245,
 246.
 Pickens, F. W., 185.
 Pierce, G. F., 59, 480, 501.
 Pierce, L., 49.
 Pillow, Gen. G. J., 232.
 Pinchard, J. S., 53.
 Plant, H. B., 484.
 Poe, W., 53.
 Polk, Gen. L., 233.
 Poor, The, 242.
 Pope, A., 54.
 Pope, Gen. J., 432, 444.
 Population of State, 4, 205.
 Pottle, E. H., 52, 439.
 Powers, A. P., 38.
 Price, Gen. S., 233.
 Pringle, J. A., 54.
 Printup, D. S., 54, 117.
 Productions of State, 9.
 Public men of Georgia, 31.
 Pulaski, Fort, 178.
 Purse, T., 102.
 Railroads, 11, 12, 141, 145.
 Railroad Commissioners,
 498.
 Ramsay, J. N., 43, 54, 102,
 219.
 Ray, J., 56, 59.
 Recognition, 196.
 Reconstruction, 410, 420,
 428
 Reese, Aug., 52, 443.
 Reese, Wm. M., 52, 480,
 501.
 Renneau, R., 49.
 Report Bond Committee,
 470.
 Resolution, 24, 95, 440, 450,
 483.
 Retrenchment, 161.
 Review of Parties, 455.
 Rice, G. D., 52.
 Rice, J. H., 52.
 Rice, Sally, 95.
 Richardson, C. B., 439.
 Richmond Examiner, 236.
 Rising Fawn Iron Co., 489.
 Rivers of State, 6.
 Rockwell, W. S., 53.
 Roll of Troops, 257.
 Rosecrans, Gen., 217, 219.
 Ruger, Gen., 432.
 Rutherford, J., 53.
 Sabbath, Christian, 160,
 239.
 Saffold, T. P., 52, 417.
 Sanders, B. M., 49.
 Sanford, J. W. A., 186.
 Salt, 241.
 Sav. Fla. & W. R. R., 499.
 Schley, G., 52.
 Schley, J., 52.
 Schley, W., 40, 52.
 Schools, 19, 20.
 Schools, Common, 146.
 Scott, Dunlap, 480.
 Scott, Gen., 211, 217.
 Scott, T. A., 484.
 Screven, Capt., 179.
 Scrutchins, T., 483.
 Seago, A. K., 483.
 Secession, 170, 174, 177,
 199, 411, 424.
 Seddon, Jas. A., 319, 325,
 330, 345-348.
 Seizure Arms, 183.
 Semmes, P. J., 180, 245,
 246.
 Senator J. E. Brown, 524.
 Seward, J. L., 41, 45.
 Seward, W. H., 413.
 Shackelford, A. D., 102.
 Sherman, Gen., 310, 318,
 320.
 Shorter, E. S., 42.
 Shorter, J. G., 185.
 Silver Question, 562.
 Simmons, J. P., 54.

- Simmons, Thomas J., 466.
 Simms, R., 53.
 Slavery, 71, 230, 414.
 Smith, Gen. G. W., 318.
 Smith, J. M., 54.
 Smith, Gen. Kirby, 223, 320.
 Smith, L. B., 54.
 Smith, Gov., 463, 464, 495, 498.
 Societies, 22, 23.
 Soil of State, 9.
 South Carolina, 168, 172, 184, 185, 186, 200, 206, 320, 432.
 South Ga. & Fla. R. R., 472.
 Southern R. R. and Steamship Association, 490.
 Southwestern R. R., 484.
 Spaulding, R., 102.
 Spear, A. M., 54.
 Spear, E., 50, 560.
 Speeches, 525, 529, 560, 562.
 Speer, Emory, 560.
 Spurlock, J. M., 102.
 Stafford, S. S., 54.
 Stark, J. H., 37.
 Starnes, E., 53.
 State Bonds, 250.
 State Convention, 71.
 State Forces, 245, 256.
 State Geologist, 158.
 State Road, 88.
 State University, 152, 156, 577, 586.
 Steel, J. D., 102.
 Stell, J. D., 55.
 Stephens, A. H., 39, 47, 51, 64, 71, 80, 82, 83, 92, 100, 185, 236, 417, 424, 450, 452, 484, 497, 589.
 Stephens, L., 51, 67, 68, 102, 449, 452.
 Stewart, J. A., 439.
 Stocks, T., 55.
 Stone, Gen., 234.
 Sturgis, J., 63.
 Styles, W. H., 38, 86, 87.
 Sumter, Fort, 185.
 Supplement, 495.
 Supreme Court, 61, 62.
 Talmage, S. K., 49.
 Tanner, W. J., 483.
 Tariff, 562, 565.
 Tatnall, Com., 184.
 Taylor, Gen. Dick, 312, 316.
 Tax, War, 263.
 Temperance, 80.
 Tennessee, 168, 172, 186, 197, 200, 206, 248, 320.
 Terry, Gen., 433, 462.
 Texas, 168, 172, 173, 186, 432.
 Thomas, G. E., 63.
 Thomas, T. W., 37, 53.
 Thompson, Gen. Jeff., 233.
 Thornton, B. E., 54.
 Thornton, V., 49.
 Thoward, S. P., 54.
 Tidwell, M. M., 54.
 Tilden-Hayes Election, 5.
 Timber of State, 10.
 Toombs, R., 39, 57, 71, 80, 82, 105, 184, 229, 316, 318, 424, 448, 587, 591.
 Towns, 14.
 Towns, G. W., 34, 38, 43, 77, 102, 103, 104, 131.
 Tracy, E. D., 51, 52.
 Tracy, P., 51, 52.
 Trammell, L. N., 464, 498.
 Transfer Troops, 181, 248, 249.
 Treasury Notes, 253.
 Trippe, R. P., 40, 53, 102.
 Trippe, T. H., 37.
 Troops, 208, 256.
 Troup, G. M., 34, 38, 75.
 Tucker, H. H., 49.
 Tucker, J. A., 53.
 Turner, A., 49.
 Tyler, Jno., 198.
 Underwood, J. W. H., 53, 65.
 Underwood, W. H., 56, 59.
 University of Georgia, 152, 156, 577, 569.
 Vason, D. H., 52.
 Vason, W. J., 186.
 Veto Power, 111, 115, 117, 121, 128.
 Virginia, 168, 172, 197, 200, 217, 320, 432.
 Vote on Secession, 174, 177.
 Vote for U. S. Senator, 561.
 Walker Iron & Coal Co., 503.
 Walker, Gen. W. H. T., 245, 250.
 Wallace, Campbell, 498.
 Wallace, J. R., 483.
 Wallace, W. S., 54.
 Walters, W. T., 484.
 War Contracts, 412.
 War Debt, 412.
 War Losses, 308.
 War Tax, 263.
 Ward, J. E., 53.
 Warner, H., 39, 52, 81, 86, 87, 487, 591.
 Warner, J. C., 489.
 Warner, O., 52, 54.
 Warren, Eli, 48, 51.
 Warren, Lott, 48, 51.
 Water Power of State, 7.
 Wayne, Gen., 246, 314, 316.
 Wayne, J. M., 36.
 Wellborn, M. J., 63.
 West Virginia, 206.
 Western Atlantic R. R., 88, 103, 130, 473, 480, 490, 501, 503.
 Whitaker, J. I., 255, 418.
 White, A. J., 483.
 White, C., 59.
 White, T. W., 186.
 Whittle, L. N., 588.
 Williams, C. J., 180.
 Williams, H., 53.
 Williams, Gen. J. S., 234.
 Willingham, C. H. C., 439.
 Wilson, Gen., 311.
 Wilson, J. S., 49.
 Wingfield, J., 52.
 Wofford, W. B., 55, 102.
 Wofford, W. T., 54.
 Worrell, B. S., 51.
 Worrell, E. H., 38, 51, 102.
 Worrell, J., 51.
 Wright, A., 49.
 Wright, Ambrose R., 54.
 Wright, Augustus R., 53, 65, 185, 186, 194.
 Wright, G. J., 51.
 Wright, W. F., 51.
 Wyley, B. F., 483.
 Yancey, W. L., 196.
 Zollicoffer, Gen., 232.
 Zouave, 214.

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